FEDERAL REGISTER

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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

[41–Tob–38]

PART 724—PROCEDURE FOR THE DETERMINATION OF BURLEY TOBACCO ACREAGE ALLOTMENTS FOR 1941

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GENERAL

§ 724.311 *Definitions.* As used in this procedure and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them, unless the context or subject-matter otherwise requires:

(a) "Burley allotment procedure for 1941" means this Form 41–Tob–38.

(b) "Local Committee" means the county and community committee utilized under the Act. "County Committee" or "Community Committee" shall have corresponding meanings in the connection in which they are used.

(c) "New farm" means a farm on which tobacco was not produced in any of the five years 1936 to 1940 but on which tobacco will be produced in 1941.

(d) "Old farm" means a farm on which tobacco was produced in one or more of the five years 1936 to 1940 and on which tobacco will be produced in 1941.

(e) "Operator" means the person who, as owner, landlord, or tenant, is in charge of the supervision and the conduct of the farming operations on the entire farm.

(f) "State Committee" means the group of persons so designated within any State to assist in the administration in the State of the Act.

(g) "Tobacco" means tobacco classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics of the United States Department of Agriculture, as type 31 and known as Burley tobacco.*

*§§ 724.311 to 724.322, inclusive, issued under the authority contained in sec. 313, 52 Stat. 47, 202, 586, as amended by Public, No. 628, 76th Congress, 3rd session; 7 U.S.C., Sup., 1313.

§ 724.312 *Extent of calculations and rule of fractions.* (a) All percentages shall be calculated to the nearest whole percent. Fractions of more than fifty-hundredths of one percent shall be rounded upward, and fractions of fifty-hundredths of one percent or less shall be dropped except as may be provided by the Regional Director. For example, 87.51% would become 88% and 87.50% would become 87%. (b) All acreage shall be calculated to the nearest one-tenth of an acre. Fractions of more than fifty-thousandths of an acre shall be rounded upward, and fifty-thousandths of an acre or less shall be dropped. For example, 1.051 would become 1.1 and 1.050 would become 1.0.*

§ 724.313 *Instructions and forms.* The Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture shall cause to be prepared and issued with his approval such instructions and such forms as may be necessary or expedient for carrying out this procedure.*

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§ 724.314 *Applicability of procedure.* This Burley Allotment Procedure for 1941 shall relate to, and be effective for, the establishment of farm acreage allotments for Burley tobacco for the year 1941.*

ESTABLISHMENT OF ALLOTMENTS AND YIELDS FOR OLD FARMS

§ 724.315 *Acreage allotments for old tobacco farms.* The farm acreage allotment for an old farm shall be the 1940 acreage allotment for the farm provided that (1) the 1941 acreage allotment shall be the 1939 allotment if the 1939 allotment was five-tenths acre or less and the allotment was reduced in 1940; or (2) the 1941 acreage allotment shall be five-tenths acre if the 1939 allotment was in excess of five-tenths acre and the allotment was reduced in 1940 to less than five-tenths acre.

The allotment thus determined will be subject to adjustment in accordance with the procedure listed in §§ 724.316 and 724.317 below.*

§ 724.316 *Reduction of acreage allotment for violations of 1940 marketing quota regulations.* If tobacco was sold or was permitted to be sold on a marketing card for any farm which was produced on a different farm the acreage allotment for each farm shall be reduced by the amount of tobacco so marketed; *Provided*, That such reduction shall not be made if the Secretary, through the local committee, determines that no person connected with such farm caused, aided, or acquiesced in such marketing. If proof of the disposition of any amount of tobacco produced on a farm is not furnished, as required by the Secretary, the acreage allotment shall be reduced by such amount of tobacco.

The amount of tobacco involved will be converted to an acreage basis by dividing such amount of tobacco by the 1940 actual yield for the farm.*

§ 724.317 *Allotments by local committees.* An amount not in excess of one percent of the 1940 acreage allotment for each State will be apportioned to the counties in the State on the basis of the percentage the county acreage allotment is of the State acreage allotment, unless otherwise recommended by the State committee and approved by the Regional Director. The acreage apportioned to the county will be available for allotment by the local committee. A farm shall be eligible for allotment as provided hereunder (a) if the committee finds that the 1940 allotment for the farm is relatively smaller in relation to the land, labor, and equipment available for the production of tobacco on the farm than the average of the allotments in relation to the land, labor, and equipment available for the production of tobacco on other farms in the county, or (b) if tobacco was harvested on the farm in 1940 for which no acreage allotment was established. In making the adjustment in the farm acreage allotment the local committee shall consider the past acreage of tobacco (harvested and diverted), the land, labor, and equipment available for the production of tobacco, and crop rotation practices. In no event shall the adjustment of the acreage allotment to any farm be more than ten percent of the 1940 allotment for the farm, or, if greater, five-tenths of an acre: *Provided*, That in the case of any farm on which tobacco was harvested in 1940 for which no acreage allotment was established the committee may establish an allotment not exceeding five-tenths of an acre.

Any adjustment as provided above shall be subject to the approval of the State committee.*

§ 724.318 *Reconstituted farms.* (a) If land operated as a single farm in 1940 has been subdivided for 1941 into two or more tracts, the 1940 tobacco acreage allotment for the farm shall be apportioned among the tracts in the same proportion as the acreage of cropland suitable for the production of tobacco on each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year, unless otherwise recommended by the county committee and approved by the State committee.

(b) If two or more farms operated separately in 1940 are combined into a single farm for 1941, the 1941 allotment shall be the sum of the 1940 allotments for each of the farms composing the combination.*

§ 724.319 *Determination of normal yields.* The normal yield for any farm shall be that yield which the local committee determines is normal for the farm taking into consideration (a) the yields obtained on the farm during the years 1936–1940; (b) the soil and other physical factors affecting the production of tobacco on the farm and (c) the yields obtained on other farms in the locality which are similar with respect to such factors. The weighted average of the normal yields for all farms in each county shall not exceed the yield established for the county in 1940, unless an adjustment for abnormal conditions is made by the Secretary upon recommendations of the State committee.*

ACREAGE ALLOTMENTS AND YIELDS FOR NEW FARMS

§ 724.320 *Determination of acreage allotments for new farms.* (a) The acreage allotment for a new farm shall be that acreage which the local committee determines is fair and reasonable for the farm taking into consideration each of the following factors: The past tobacco experience of the farm operator; the acreage of cropland in the farm suitable for tobacco production; the acreage capacity of barns which are located on the farm and which are in usable condition and available for the curing of tobacco; the customary crop rotation practices; and the adaptability of the soil to the growing of tobacco: *Provided*, That the acreage allotment so determined shall be subject to approval by the State committee and shall not exceed the smallest of (1) one-fifth of the past acreage of tobacco grown by the farm operator 1936–1940; (2) 75 percent of the average acreage allotment for old farms in the county; or (3) one acre.

(b) Nothwithstanding any other provisions of this section a tobacco acreage allotment shall not be established for any new farm unless the following conditions have been met:

(1) The farm operator shall have had two years or more experience in growing tobacco as a share-cropper, tenant, or as a farm operator during the past five years;

(2) The farm operator shall be living on the farm and largely dependent on this farm for his livelihood;

(3) The farm covered by the application shall be the only farm owned or operated by the farm operator on which any tobacco is produced; and

(4) No kind of tobacco other than Burley will be grown on the farm in 1941.

The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. The acreage available for establishing allotments for farms on which no tobacco was grown during the past five years shall be one-half of one percent of the national allotment.*

§ 724.321 *Time for filing application.* In order to obtain an allotment for a new tobacco farm in 1941, the operator of the farm shall file an application therefor on 41–Tob–37, prior to February 1, 1941.*

§ 724.322 *Determination of normal yields.* The normal yield for a new farm shall be that yield per acre which the local committee determines is reasonable for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.*

Done at Washington, D. C., this 18th day of December, 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. D. Doc. 40–5769; Filed, December 19, 1940; 11:33 a. m.]

CHAPTER VIII—SUGAR DIVISION OF THE AGRICULTURAL ADJUSTMENT ADMINISTRATION

[G. S. R. Series 2, No. 5, Revised]

PART 801—GENERAL SUGAR REGULATIONS

HANDLING OF EXCESS-QUOTA SUGAR IN THE CONTINENTAL UNITED STATES

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1937, as amended, I, Claude R. Wickard, Secretary of Agriculture, in order to carry out the powers vested in me by the said act, do hereby make, prescribe, publish, and give public notice of these regulations, which shall have the force and effect of law and shall continue in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture.

§ 801.41 *Definitions.* As used in these regulations:

(a) The term "act" means the Sugar Act of 1937, as amended;

(b) the term "Secretary" means the Secretary of Agriculture of the United States;

(c) the term "quota" means the quota fixed by the Secretary for the mainland cane sugar area and for the domestic beet sugar area pursuant to the act;

(d) the term "allotment" means any allotment of the quota made by the Secretary pursuant to section 205 (a) of the act;

(e) the term "processor" means any person engaged in the manufacture of sugar from sugar beets or sugarcane grown in the continental United States; and

(f) the term "excess-quota sugar" means all sugar owned by a processor after the allotment for such processor for the current year has been filled, or, if no allotment has been made, all sugar owned by a processor after the applicable quota for the current year has been filled.*

*§§ 801.41 to 801.46, inclusive, issued under the authority contained in section 504, 50 Stat. 915; 7 U.S.C., Supp. V, 1174.

§ 801.42 *Processing excess-quota sugar under bond.* Excess-quota sugar produced from sugarcane grown in the continental United States may be marketed for further processing upon the following conditions:

(a) That the processor file with the Secretary an application setting forth adequate reasons regarding the necessity for such marketing and full information regarding the quantity and type of sugar, approximate polarization, identification marks, and the place where the sugar is stored; and

(b) that the person to whom the sugar is delivered shall furnish a bond, with a surety or sureties satisfactory to the Secretary and in such amount as the Secretary shall determine, obligating such person to segregate physically the sugar within 30 days, or such shorter period as may be designated by the Secretary, and to hold such sugar, or an equivalent amount thereof, apart from all other sugar until the beginning of the next calendar year.*

§ 801.43 *Marketing of excess-quota sugar.* Excess-quota sugar produced from sugar beets or sugarcane grown in the continental United States may be marketed if the processor is the owner of an equivalent amount of quota sugar produced in the same area, or else has entered into a contract for the purchase of an equivalent amount of such sugar and takes delivery thereof at the commencement of the current crop, but not later than December 1 of the current year, and holds such sugar until the beginning of the next calendar year.*

§ 801.44 *Cancelation of bond.* The Secretary may cancel or release any bond given under § 801.42 hereof to the extent that such cancelation or release is necessary to permit the marketing of any increase in the applicable quota or in the allotment made to the person furnishing such bond.*

§ 801.45 *Designation of agent.* The Chief, or the Acting Chief, of the Sugar Division of the Agricultural Adjustment Administration and the officer in charge of the Baton Rouge office of the Agricultural Adjustment Administration, or the acting officer in charge thereof, are hereby designated to act, jointly or severally, as agents of the Secretary in administering the provisions of these regulations, except that the authority of the latter shall extend only to the application of such provisions to sugar produced from sugarcane.*

§ 801.46 *Rescission of prior regulations.* These regulations (§§ 801.41 to 801.45) shall supersede General Sugar Regulations, Series 2, No. 5,[1] issued May 24, 1939.*

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 18th day of December 1940.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 40–5767; Filed, December 19, 1940; 11:33 a. m.]

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[1] 4 F.R. 2128.

PART 802—SUGAR DETERMINATIONS

DETERMINATION OF FARMING PRACTICES TO BE CARRIED OUT ON FARMS IN CALIFORNIA IN CONNECTION WITH THE PRODUCTION OF SUGAR BEETS DURING THE CROP YEAR 1941, PURSUANT TO THE SUGAR ACT OF 1937, AS AMENDED

Whereas, section 301 of the Sugar Act of 1937, as amended, authorizes the Secretary of Agriculture to make payments, under specified conditions, with respect to sugar or liquid sugar commercially recoverable from the sugar beets or sugarcane grown on a farm for the extraction of sugar or liquid sugar, and

Whereas, subsection (e) of section 301 of the said act provides, as one of the conditions for payment, as follows:

> That there shall have been carried out on the farm such farming practices in connection with the production of sugar beets and sugarcane during the year in which the crop was harvested with respect to which a payment is applied for, as the Secretary may determine, pursuant to this subsection, for preserving and improving fertility of the soil and for preventing soil erosion, such practices to be consistent with the reasonable standards of the farming community in which the farm is situated.

Now, therefore, I, Claude R. Wickard, Secretary of Agriculture, do hereby make the following determination:

§ 802.13e *Farming practices to be carried out on farms in California in connection with the production of sugar beets during the crop year 1941.* The conditions prescribed in section 301 (e) of the Sugar Act of 1937, as amended, shall be deemed to have been fulfilled with respect to the production of the 1941 crop of sugar beets on any farm in California if there is carried out during the crop year 1941, on land on the farm which is adapted to the production of sugar beets, not less than one acre of soil-conserving practices for each acre planted to sugar beets: *Provided, however,* That one-half acre of soil-conserving practices shall be required for each acre planted to sugar beets on land which has not produced sugar beets since 1937, if a perennial legume was produced thereon in 1938, or if any legumes were produced thereon in 1939 or 1940; and three-fourths acre of soil-conserving practices shall be required for each acre planted to sugar beets on land which has not grown sugar beets since 1938, if legumes were produced thereon in 1939 or 1940; one-half acre of soil-conserving practices shall be required for each acre planted to sugar beets on land which has not grown sugar beets since 1937; and two-thirds acre of soil-conserving practices shall be required for each acre planted to sugar beets on land which has not grown sugar beets since 1938: *And provided further,* That a portion of the acres of soil-conserving practices required for rented acreage of any farm which would otherwise be part of another farm may consist of acres of practices carried out on the latter farm in excess of any practices required thereon, but an acreage of soil-conserving practices equal to not less than 25 percent of the acres planted to sugar beets on such rented acreage shall be carried out on the farm of which such rented acreage is a part in excess of any practices required thereon.

For the purposes of this determination:

(a) The term "crop year" means the calendar year, except where the grower requests that the crop year be a twelve-month period beginning 120 days prior to the normal planting date of sugar beets for the community, in which case the crop year shall be such twelve-month period, if approval is given by the County Committee.

(b) The term "Area 1" means all of the counties in California east of the west borders of Contra Costa, San Joaquin, Stanislaus, Merced, Fresno, Kings, and Kern Counties and north of the south border of Kern and Inyo Counties.

(c) Each of the following shall be deemed to be one acre of soil-conserving practices:

(1) Maintaining until after July 1, 1941, one acre of protective covering of adapted perennial or biennial legumes, adapted perennial grasses, or mixtures of such legumes and grasses; or

(2) Seeding during the crop year 1941 one-half acre of land to adapted perennial or biennial legumes, adapted perennial grasses, or mixtures of such legumes and grasses; or

(3) Seeding and maintaining until after December 31, 1941, one acre of a good growth and a good stand of an adapted cover crop, or plowing under during the crop year 1941 one acre of a good stand and a good growth of an adapted green manure crop; or

(4) Applying during the crop year 1941 eight short tons of animal manure, or the amount of manure normally produced in one year by any of the following: Two head of cattle of more than one year of age, two horses, two mules, four calves, four colts, ten sheep, or ten goats; or

(5) Applying during the crop year 1941 not less than eight tons (air dry weight) of leguminous crop residues; or

(6) Applying during the crop year 1941 three tons of lime, or 1,000 pounds of 18 percent gypsum or its sulphur equivalent; or

(7) Applying during the crop year 1941 to land planted to sugar beets 75 pounds of available nitrogen and/or potash in the form of commercial chemical fertilizers; or

(8) Applying during the crop year 1941 to land planted to sugar beets, or to or in connection with the seeding of perennial or biennial legumes or perennial grasses, 64 pounds of net available P_2O_5 in the form of commercial fertilizers.

(d) Adapted perennial or biennial legumes, or adapted perennial grasses, or mixtures thereof, or adapted green manure or cover crops, shall be deemed to be those perennial and biennial legumes or perennial grasses or mixtures thereof, or green manure crops and cover crops, which are approved under the 1941 State Agricultural Conservation Program as being adaptable for the State.

All of the foregoing soil-conserving practices shall be carried out in accordance with the farming methods commonly used in the community in which the farm is located.

Acres of soil-conserving practices (other than acreage qualifying under practice (1)) carried out to meet the requirements prescribed for the 1940 sugar beet crop, pursuant to section 301 (e) of the said act, shall not be used to meet the requirements set forth herein for the 1941 crop. (Sec. 301, 50 Stat. 909; 7 U.S.C., Supp. V, 1131)

Done at Washington, D. C., this 18th day of December, 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 40-5768; Filed, December 19, 1940; 11:33 a. m.]

CHAPTER I—AGRICULTURAL MARKETING SERVICE

PART 46—LICENSING REGULATIONS UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

DEFINITION OF CHERRIES IN BRINE AMENDED

Correction

The paragraph designation of "(d–1)" should be changed to "(d)" in F.R. Doc. 40–5711 (filed, December 17, 1940, at 3:00 p. m.) appearing at page 5167 of the issue for Thursday, December 19, 1940.

TITLE 29—LABOR

CHAPTER V—WAGE AND HOUR DIVISION

PART 588—MINIMUM WAGE RATES IN THE LUGGAGE AND LEATHER GOODS INDUSTRY

WAGE ORDER IN THE MATTER OF THE RECOMMENDATION OF INDUSTRY COMMITTEE NO. 13 FOR A MINIMUM WAGE RATE IN THE LUGGAGE AND LEATHER GOODS INDUSTRY

Whereas on May 14, 1940, pursuant to Section 5 of the Fair Labor Standards Act of 1938, herein referred to as the Act, the Administrator of the Wage and Hour

Division of the United States Department of Labor, by Administrative Order No. 51, appointed Industry Committee No. 13 for the Luggage and Leather Goods Industry, herein called the Committee, and directed the Committee to recommend minimum wage rates for the Luggage and Leather Goods Industry in accordance with Section 8 of the Act; and

Whereas the Committee included six disinterested persons representing the public and a like number of persons representing employers in the Luggage and Leather Goods Industry, and a like number of persons representing employees in the industry, and each group was appointed with due regard to the geographical regions in which the Luggage and Leather Goods Industry is carried on; and

Whereas on July 23, 1940, the Committee, after investigation of economic and competitive conditions in the industry, filed with the Administrator a report containing its recommendation for a 35 cent minimum hourly wage rate in the Luggage and Leather Goods Industry; and

Whereas after notice published in the FEDERAL REGISTER on August 14, 1940, Henry T. Hunt, Esquire, Principal Hearings Examiner, the Presiding Officer designated by the Administrator, held a public hearing upon the Committee's recommendation at Washington, D. C., on September 5, 1940, at which all interested persons were given an opportunity to be heard; and

Whereas the complete record of the proceeding before the Presiding Officer has been transmitted to the Administrator; and

Whereas all persons who appeared at the hearing were given leave to file briefs on or before October 21, 1940; and

Whereas no requests for oral argument having been received, oral argument on the Committee's recommendation was dispensed with in this proceeding; and

Whereas the Administrator, upon reviewing all the evidence adduced in this proceeding and giving consideration to the provisions of the Act with special reference to Sections 5 and 8, concludes that the Industry Committee's recommendation for the Luggage and Leather Goods Industry, as defined by Administrative Order No. 51, is made in accordance with law, is supported by the evidence adduced at the hearing, and taking into consideration the same factors as are required to be considered by the Industry Committee, will carry out the purposes of the Act; and

Whereas the Administrator has set forth his decision in an opinion entitled "Findings and Opinion of the Administrator in the Matter of the Recommendation of Industry Committee No. 13 for a Minimum Wage Rate in the Luggage and Leather Goods Industry," dated this day, a copy of which may be had upon request addressed to the Wage and Hour Division, United States Department of Labor, Washington, D. C.;

Now, therefore, it is ordered that

§ 588.1 *Approval of recommendation of industry committee.* The Committee's recommendation is hereby approved, and in accordance with such recommendation.*

*§§ 588.1–588.6 issued under the authority contained in Sec. 8, 52 Stat. 1064; 29 U.S.C., Sup. IV, 208.

§ 588.2 *Wage rates.* Wages at a rate of not less than 35 cents per hour shall be paid under Section 6 of the Act by every employer to each of his employees in the Luggage and Leather Goods Industry who is engaged in commerce or in the production of goods for commerce.*

§ 588.3 *Posting of notices.* Every employer employing any employees so engaged in commerce or in the production of goods for commerce in the Luggage and Leather Goods Industry shall post and keep posted in a conspicuous place in each department of his establishment where such employees are working such notices of this Order as shall be prescribed from time to time by the Wage and Hour Division of the United States Department of Labor.*

§ 588.4 *Definition of the luggage and leather goods industry.* The Luggage and Leather Goods Industry to which this Order shall apply is hereby defined as follows:

(a) The manufacture from any material of luggage including, but not by way of limitation, trunks, suitcases, traveling bags, brief cases, sample cases; the manufacture of instrument cases covered with leather, imitation leather or fabric including, but not by way of limitation, portable radio cases; the manufacture of small leather goods and like articles made from fabric or imitation leather, except imitation leather made from paper; but not the manufacture of bodies, panels, and frames from metal, wood, fibre, or paperboard for any of the above articles.

(b) The manufacture from leather, imitation leather or fabric of cut stock and findings for any of the articles covered in paragraph (a).*

§ 588.5 *Scope of the definition.* The definition of the Luggage and Leather Goods Industry covers all occupations in the industry which are necessary to the production of the articles specified in the definition, including clerical, maintenance, shipping and selling occupations.*

§ 588.6 *Effective date.* This Wage Order shall become effective January 6, 1941.*

Signed at Washington, D. C., this 18th day of December, 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40–5772; Filed, December 19, 1940; 11:34 a. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

[Order No. 307 [1]]

PART 309—REPORTS; CODE MEMBERS

AN ORDER REVOKING ORDERS NOS. 296 AND 297; RESCINDING AND DISCONTINUING USE OF FORM BCD NO. 354 AND FORM BCD NO. 355; DIRECTING CODE MEMBERS, THEIR SALES AGENTS, REGISTERED DISTRIBUTORS AND REGISTERED FARMERS' COOPERATIVE ORGANIZATIONS TO MAINTAIN AND KEEP ON FILE, AND TO REQUIRE PERSONS AFFILIATED WITH THEM, TO MAINTAIN AND KEEP ON FILE TRUCK TICKETS, SALES SLIPS, INVOICES, OTHER MEMORANDA OR RECORDS RELATING TO SALES AND SHIPMENTS OF COAL BY TRUCK OR WAGON; AND DIRECTING THE MAINTENANCE AND FILING WITH THE DIVISION OF CERTAIN RECORDS AND DATA

The Director, having issued Orders Nos. 296 [2] and 297,[3] dated September 23, 1940, and October 22, 1940, respectively, relating to the filing of certain information in connection with shipments of coal by truck and wagon, and

A hearing having been held before an Examiner in General Docket No. 18 involving the reasonableness of and necessity for the provisions of certain proposed orders, one of which contained requirements similar in substance to those contained in Orders Nos. 296 and 297, and

The Examiner in General Docket No. 18 having filed a report stating that, in his opinion, and upon the basis of evidence adduced at the hearing, certain of the proposed provisions contained unnecessary and unreasonable requirements, and

It appearing that an emergency having been created in that, if the Examiner's conclusions are found to be correct, persons subject to the provisions of Orders Nos. 296 and 297 would, in the meantime, be unnecessarily burdened,

The Director is of the opinion that the requirements of Orders Nos. 296 and 297 should be relaxed, pending determination by the Director of the matters involved in General Docket No. 18, and to that end, therefore,

Pursuant to the provisions of sections 2 (a), 4 II (a), 4 II (g), and 10 (a) of the Bituminous Coal Act of 1937, the Rules and Regulations for the Registration of Distributors and Farmers' Cooperative Organizations, and other authority granted by law,

It is ordered, That:

Effective January 1, 1941, Sections 309.41 through Section 309.51, inclusive, be and they are hereby revoked, and, effective January 1, 1941, Form BCD No. 354 and Form BCD No. 355 be and they

[1] This Order relates only to shipments moving entirely by truck or wagon from mine, storage facility or preparation plant to destination.

[2] 5 F.R. 3844.

[3] 5 F.R. 4270.

are hereby rescinded and their use discontinued.

The following rules and regulations are hereby adopted effective January 1, 1941:

§ 309.52 *Definitions.* (a) "Control." The word "control" as used in this Order means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise.

(b) "Affiliate." The word "affiliate" as used in this Order means the existence of a relationship between two persons (individuals, firms, associations, corporations, or other entities) whereby they are under common control.*

*§§ 309.52 to 309.59, inclusive, are issued pursuant to the authority contained in section 2 (a), 50 Stat. 72, 15 U.S.C. Supp. 829 (a); Section 4 II (a), 50 Stat. 77, U.S.C. Supp. 833 (a); and Section 4 II (g), 50 Stat. 81, 15 U.S.C. Supp. 833 (g).

§ 309.53 *Maintenance and filing of records.* Each code member or his sales agent, each registered distributor, and each registered farmers' cooperative organization shall maintain and file, and shall require persons affiliated with him to maintain and file, beginning on January 1, 1941, records and information as hereinafter set forth.

§ 309.54 *Truck tickets*—(a) *Manner of keeping.* For each sale, resale, consignment, shipment or other disposal or movement of coal by truck or wagon from the mine, storage facility or preparation plant occurring on and after January 1, 1941, the seller or shipper of such coal shall maintain and keep on file a copy of each truck ticket, sales slip, invoice, other memoranda or record covering such transaction, in such a manner as to permit of the immediate filing thereof and the filing of such reports or summarizations thereof as the Director may, from time to time, require.

These documents or records shall be maintained and kept on file in order according to date of sale, at the mine or business office of such seller or shipper for a period of twelve months from date thereof.

(b) *Information to be recorded.* The copy of the truck ticket, sales slip, invoice, other memoranda or record shall contain, in addition to any information the seller or shipper may desire, the following information:

(1) Truck ticket number.

(2) Date of shipment.

(3) Name of the seller or shipper.

(4) Mine Index Number, as listed in the Price Schedule, of the mine at which the coal is produced. (If coal is sold or shipped from a central preparation plant, or from a storage pile or loading facility other than at the mine, show the name and address of such preparation plant, storage pile or loading facility).

(5) Name of the purchaser.

(6) Net weight of the coal. (Gross and tare weights may also be shown. Where no scales are available, estimated weight shall be given and marked "Est.," or "Estimated.")

(7) Actual size of the coal sold or shipped.

(8) Price per net ton f. o. b. the truck or wagon at the mine, storage pile, loading facility or central preparation plant, as the case may be. (Where coal is sold in loads measured by bushels, the price per bushel may be shown instead of price per ton.)

(9) Total amount charged for the coal.

(10) Signature or initials of the weigh master, person selling the coal, or person marking the record.

(FOR COAL SOLD ON A DELIVERED BASIS)

(11) If sold on a delivered basis, the amount of delivery charge shall be separately shown.

(12) If sold on a delivered basis, show the approximate distance in miles which the coal is hauled.

(13) If sold on a delivered basis, the signed receipt from the customer, and his address, shall also be kept on file.

(c) *Future filings.* The Director may, from time to time, order the filing with the Division of copies of all truck tickets covering the transactions in any District or a portion of any District, and such reports or summarizations thereof as may be necessary.*

§ 309.55 *Production records.* Each code member shall maintain and keep on file in order according to date, mine bulletin, tipple sheets, or other appropriate production record (such as may be employed by the producer to inform the miners of the amount of their daily production), which records shall be kept for a period of twelve months after the date of each such record, for inspection by or for transmittal to the Division upon request.*

§ 309.56 *Authorizations to inspect weighing records and truck tickets.* Each person subject to the provisions of this Order shall upon receipt of this Order, file with the Division an order authorizing all State, municipal, and private scales reporting the weights of coal sold, consigned, or delivered by such person subject to this Order, to make available to the Division upon its request, the records of such weighings, and authorizing the Division to inspect and examine any truck ticket or other memoranda accompanying any such shipment of coal.[4] *

(If an Order authorizing State, municipal and private scales as herein provided has been filed pursuant to § 309.41 thru § 309.48 it need not be refiled pursuant to this Order. But, the Order required herein authorizing the Division to inspect and examine truck tickets or other memoranda accompanying shipments of coal not having been required by § 309.41 thru § 309.48, must be filed pursuant to this Order).*

[4] For form of authorization see § 309.59.

§ 309.57 *Confidential treatment of data filed.* All data that may be filed with the Division in conformity with this Order, except the authorization required by Section V shall, to the extent provided in the Act, be held by the Division and the Statistical Bureaus as the confidential information of the person filing such information.*

§ 309.58 *Penalties.* Persons failing to comply with the requirements of this Order shall be subject to the appropriate penalties prescribed by the Act, the Bituminous Coal Code and the Rules and Regulations for Registration of Distributors and Registration of Farmers' Cooperative Organizations. Persons filing false or incomplete data or reports are subject to criminal penalties as provided in Section 35 of the Criminal Code, as amended by the Act of June 18, 1934, Chap. 587, Stat. 996. (U.S.C. Title 18, Sec. 80) and other provisions of the law.*

§ 309.59 *Form of authorization.* The Order of Authorization required by § 309.56 of this Order may be made in substantially the following form:

The undersigned, , ([1]) hereby grants the authorizations requested pursuant to Section 309.56 of Order 307, and

(a) authorizes all State, municipal, and private scales reporting the weight of coal sold, consigned or delivered by the undersigned, to make available to the Division upon its request, the records of such weighings, and

(b) authorizes the Bituminous Coal Division to inspect and examine any sales slip or other memoranda accompanying any shipment of coal made by the undersigned.

Dated: ----------, 194--.

By ----------

[1] Indicate whether code member, sales agent, registered distributor or registered farmers' cooperative organization.

(Such form properly signed shall be mailed to the Bituminous Coal Division, Department of the Interior, 734 Fifteenth Street NW., Washington, D. C.)

Dated: December 11, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5746; Filed, December 12, 1940; 11:33 a. m.]

TITLE 46—SHIPPING

CHAPTER I—BUREAU OF MARINE INSPECTION AND NAVIGATION

[Order No. 68]

SUBCHAPTER A—DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS, ETC.

PART 3—TONNAGE DUTIES AND LIGHT MONEY

DECEMBER 18, 1940.

§ 3.2 *Exemptions from tonnage duty* is hereby amended by the deletion of paragraph (3) of subsection (b); by renumbering paragraphs (4), (5), and (6) of subsection (b) to read (3), (4), and (5), respectively; by relettering subsections (a), (b), (c), (d), (e), (f), (g), and (h), to read (b), (c), (d), (e), (f), (g), (h), and (i), respectively; and by the insertion

of a new subsection lettered (a), reading as follows:

(a) Vessels coming in for bunkers (fuel or water for the vessel), sea stores, or ship's stores, transacting no other business in the port, and departing within 24 hours after arrival. If such vessels are engaged in trade and remain more than 24 hours after arrival (whether any other business is transacted in the port or not) they are subject to tonnage tax as provided in this Part, unless exempted under the provisions of subsections (b), (c), (d), (e), (f), (g), (h), or (i) of this section.

Part 3 is hereby amended by renumbering §§ 3.5; 3.6; 3.7 and 3.8, to read 3.6; 3.7; 3.8 and 3.9, respectively, and by the addition of a new section following immediately after section 3.4 and numbered 3.5, reading as follows:

§ 3.5 *Nations whose vessels are exempted from discriminatory tonnage duties and light money.* Vessels of nations listed herein are exempted by the provisions of existing treaties and Presidential proclamations from the payment of any higher tonnage duties than are applicable to vessels of the United States, and from the payment of light money. (See 46 C.F.R. 3.3 and 3.4.)

Argentina
Australia
Belgium
Bolivia
Brazil
Canada
Chile
China
Colombia
Costa Rica
Cuba
Danzig
Denmark
Dominican Republic
Egypt
El Salvador
Estonia
Fiji
Finland
France
Germany
Great Britain[1]
Greece
Greenland
Guatemala
Haiti
Honduras
Hungary
Iceland
Iraq
Ireland (Eire)
Italy
Japan
Latvia
Liberia
Mexico
Muscat
Netherlands
Nicaragua
Norway
Palestine
Panama
Paraguay
Peru
Poland
Portugal
Roumania
Saudi Arabia
Spain
Sweden
Syria and The Lebanon
Thailand (formerly Siam)
Turkey
Union of Soviet Socialist Republics
Venezuela
Yugoslavia

[1] Vessels of Great Britain include, among others, British vessels arriving at ports in the United States from ports in the British West Indies, British Guiana, Bahama Islands, Caicos Islands (now a part of Jamaica) and from the islands, provinces, and colonies of Great Britain on or near the American Continent, and north or east of the United States. (See Presidential proclamation dated October 5, 1830.)

Subsection (c) of § 3.8 *Vessels in the domestic trade* is hereby amended to read as follows:

Vessels which are not wholly owned by citizens of the United States, and which are neither documented nor numbered, if employed in towing any vessel other than a vessel of foreign registry, or a vessel in distress, from any port or place in the United States, its territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or if performing any part of such towing, or if employed in towing any vessel other than a vessel of foreign registry, or a vessel in distress, from point to point within the harbors of any such place, are liable to pay $50.00 per ton on the measurement of the vessels towed, unless the tugboat or towboat is owned by a foreign railroad company or corporation whose road enters the United States by means of such transportation.

[(Sec. 3, Act of July 5, 1884 as amended, 4 U.S.C. 3; R.S. 4219 as amended, 46 U.S.C. 121; R.S. 4225 as amended, 46 U.S.C. 128; R.S. 4370 as amended (Public 599, 76th Cong.); R.S. 161, 5 U.S.C. 22)]

R. S. FIELD,
Director.

Approved:

JESSE H. JONES,
Secretary of Commerce.

[F. R. Doc. 40-5743; Filed, December 19, 1940; 10:07 a. m.]

Notices

WAR DEPARTMENT.

[Contract No. W 6905 qm-44; O. I. No. 42]

SUMMARY OF CONTRACT FOR CONSTRUCTION

CONTRACTOR: TULLER CONSTRUCTION COMPANY, 95 MONMOUTH STREET, RED BANK, NEW JERSEY

Contract for * * * Base Hangar with Side and Rear Lean-to and Flight Hangars Nos. * * * Amount, $1,621,800.00.

Place: Westover Field, Northeast Air Base, Chicopee Falls, Mass.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the Procurement Authorities listed below:

QM 3456 P1-3211 A 0540.035-N C. of B., U. & A. No Year, Supplemental Military Appropriation Act of 1940	$580,000.00
QM 8300 P1-3211 A 0540.035-N C. of B., U. & A. No Year, Supplemental Military Appropriation Act of 1940	1,041,800.00

the available balance of which is sufficient to cover the cost of same.

This Contract entered into this 19th day of July 1940.

ARTICLE 1. *Statement of work.* The contractor shall furnish the materials, and perform the work for the construction and completion of * * * Base Hangar with Side and Rear Lean-to, and Flight Hangars Nos. * * * for the consideration of One Million Six Hundred Twenty-One Thousand Eight Hundred Dollars ($1,621,800.00) in strict accordance with the specifications, schedules, and drawings, all of which are made a part hereof.

ART. 3. *Changes.* The contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings and/or specifications of this contract and within the general scope thereof.

ART. 9. *Delays—Damages.* If the contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in article 1, or any extension thereof, or fails to complete said work within such time, the Government, may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been delay.

ART. 16. *Payments to contractors.* Unless otherwise provided in the specifications, partial payments will be made as the work progresses at the end of each calendar month, or as soon thereafter as practicable, on estimates made and approved by the contracting officer.

All material and work covered by partial payments made shall thereupon become the sole property of the Government.

Upon completion and acceptance of all work required hereunder, the amount due the contractor under this contract will be paid upon the presentation of a properly executed and duly certified voucher therefor.

This contract is authorized by the acts of Public No. 164, Supplemental Military Appropriation Act, 1940, 76th Congress, approved July 1, 1939. Public 611, 76th Congress, Military Appropriation Act, 1941, approved June 13, 1940.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 40-5752; Filed, December 19, 1940; 10:18 a. m.]

[Contract No. W 6910 qm-22; O. I. No. 57]

SUMMARY OF CONTRACT FOR CONSTRUCTION

CONTRACTOR: FOSTER & CREIGHTON COMPANY

Contract for: Construction and completion of Depot Supply Building and En-

gine Repair Shop at the Southeast Air Depot. Amount $1,433,400.00.

Place: Mobile, Alabama.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority QM 3207 P 1–3211 A 0540–01, C. of B. U. & A. at MP—1940–41, and QM 8301 P 1–3211 A 0540–01, C. of B. U. & A. at MP—1940–41, the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 1st day of August 1940.

Statement of work. The contractor shall furnish the materials and perform the work for Construction and completion of Depot Supply Building and Engine Repair Shop at the Southeast Air Depot, Mobile, Alabama for the consideration of One Million Four Hundred Thirty-Three Thousand, Four Hundred ($1,433,400.00) Dollars in strict accordance with the specifications, schedules, and drawings, all of which are made a part hereof.

Changes. The contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings and/or specifications of this contract and within the general scope thereof.

Delays—Damages. If the contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in article 1, or any extension thereof, or fails to complete said work within such time, the Government, may, by written notice to the contractor, terminate his right to proceed with the work or such part of the work as to which there has been delay.

Payments to contractors. Unless otherwise provided in the specifications, partial payments will be made as the work progresses at the end of each calendar month, or as soon thereafter as practicable, on estimates made and approved by the contracting officer.

All material and work covered by partial payments made shall thereupon become the sole property of the Government.

Upon completion and acceptance of all work required hereunder, the amount due the contractor under this contract will be paid upon the presentation of a properly executed and duly certified voucher therefor.

This contract is authorized by the acts of Congress (Third Deficiency Appropriation Act, 1939, Public No. 361—76th Congress, approved August 9, 1939).

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40–5751; Filed, December 19, 1940; 10:18 a. m.]

[Contract No. W 535 ac–16526 (3984)]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: WRIGHT AERONAUTICAL CORPORATION

Contract for * * * Series Aeronautical Engines, Spare Parts Therefor and Data (For the U. S. Army Air Corps and the U. S. Navy). Amount: $11,436,042.00.

Place: Materiel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover cost of same:

AC 34 P 12–3037 A 0705–01	$10,943,112.00
AC 28 P 82–3037 A 0705–01	492,930.00

This Contract, entered into this 24th day of October 1940.

ARTICLE 1. *Scope of this contract.* The contractor shall furnish and deliver to the Government all of the articles and data as set forth more particularly in Article 16 hereof, for the consideration stated Eleven Million Four Hundred Thirty-Six Thousand Forty Two Dollars ($11,436,042.00), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

ART. 5. *Delays—Damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

ART. 8. *Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

ART. 16. *Articles, supplies and data called for.* The Contractor shall furnish and deliver to the Government all of the following articles, in the quantities and at the prices indicated below:

Item 1. * * * Engines, Aeronautical, total	$1,272,848.00
Item 2. * * * Engines, Aeronautical, total	3,656,887.00
Item 3. * * * Engines, Aeronautical, total	2,283,712.00
Item 4. * * * Engines, Aeronautical, total	2,713,708.00
Item 5. Spare parts for * * * aeronautical engines called for under Item 1 at not to exceed a total cost of	128,896.00
Item 6. Spare parts for * * * aeronautical engines called for under Item 2 at not to exceed a total cost of	364,034.00
Item 7. Spare parts for * * * aeronautical engines called for under Item 3 at not to exceed a total cost of	369,424.00
Item 8. Spare parts for * * * aeronautical engines called for under Item 4 at not to exceed a total cost of	645,333.00
Item 9. * * * data and drawings covering the aeronautical engines called for under the terms of Item 3 at a cost not to exceed	600.00
Item 10. * * * data and drawings covering the aeronautical engines called for under the terms of Item 4 at a cost not to exceed	600.00
Item 11. Engineering data covering the aeronautical engines called for under Items 1 and 2 above	No Cost

The aeronautical engines called for under Items 1 and 2, the spare parts called for under Items 5 and 6 and the data called for under item 11 are being purchased for use by the U. S. Army Air Corps. The aeronautical engines called for under Items 3 and 4, the spare parts called for under items 7 and 8 and the engineering data called for under Items 9 and 10 are being purchased for use by the U. S. Navy.

Partial payments will be made as the work progresses at the end of each calendar month or as soon thereafter as practicable on authenticated statements of expenditures of the Contractor approved by the Contracting Officer.

ART. 19. *Advance payments.* Advance payments may be made from time to time for the supplies called for, when the Secretary of War deems such action necessary in the interest of the National Defense.

ART. 24. *Special conditions.* The Contractor represents that the fixed prices established in this contract include no element on account of or representing cost of expansion of plant facilities (including land, buildings, machinery, tools, and equipment) of vendors or subcontractors. In the event that it shall prove necessary, in order to enable the Contractor to perform this contract, that funds be made available to such vendors or subcontractors for such expansion of facilities and the Government shall not enter directly into arrangements with

such vendors or subcontractors providing for such expansion, the prices herein established shall be negotiated to provide for the inclusion therein as an element of cost funds which are necessarily paid by the Contractor to such vendors or subcontractors for such expansion of facilities.

It is understood and agreed that certain plant facilities in addition to those now available to the Contractor will be required by the Contractor to enable him to comply with the delivery schedules contained in this contract. If an agreement satisfactory to the Contractor, providing for the construction or acquisition of such facilities, is not entered into, and, if required, approved on or before * * *, then and in such event negotiations shall, at the written request of the Contractor, delivered to the Contracting Officer be entered into for the amendment of such delivery schedules. If no agreement on such amendment be reached within * * * days from the date of delivery of such request, then the Contractor shall have the right, at any time thereafter and prior to the execution and approval, if required, of an agreement providing for the facilities required as hereinbefore stated, to demand in writing of the Contracting Officer that the Government terminate this contract upon the terms and conditions hereinafter stated in the clause permitting termination when the Contractor is not in default, and the Government agrees in such event to so terminate.

ART. 25. *Termination when contractor not in default.* If, in the opinion of the contracting officer upon the approval of the Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the Contractor be not in default, by a notice in writing relative thereto from the contracting officer to the contractor.

ART. 30. *Price Adjustment.* The contract prices stated in this contract for engines and spare parts are subject to adjustments for changes in labor and material costs.

It is expressly agreed that quotas for labor will not be altered on account of delays in the completion of the engines and spare parts.

ART. 32. *Title to property where partial payments are made.* The title to all property upon which any partial payment is made prior to the completion of this contract, shall vest in the Government.

ART. 34. *Fire Insurance.* The contractor agrees to insure against fire all property in its possession upon which a partial payment is about to be made, such insurance to be in a sum at least equal to the amount of such payment plus all other partial payments.

This contract authorized under the provisions of Paragraph 4 g (1), A.R. 5-240.

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5749; Filed, December 19, 1940; 10:17 a. m.]

[Contract No. W 535 ac-16113 (3828)]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: BENDIX AVIATION CORPORATION, PIONEER INSTRUMENT DIVISION

Contract for Oxygen Regulators * * * Amount $2,200,967.25.

Place: Material division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

This contract, entered into this 25th day of October 1940.

ARTICLE 1. *Scope of this contract.* The contractor shall furnish and deliver to the Government all of the articles and data called for under the terms of Article 16 hereof, for the consideration stated Two Million Two Hundred Thousand Nine Hundred Sixty-Seven Dollars and 25/100 ($2,200,967.25) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

ART. 5. *Delays—Damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

ART. 8. *Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

ART. 16. *Articles and supplies called for and unit prices thereof.* The Contractor shall furnish and deliver to the Government all the following Oxygen Regulators:

Item 1. * * * Regulator Assemblies, Oxygen at the total price of	$72,000.00
Item 2. * * * Regulator Assemblies, Oxygen at the total price of	2,128,967.25

The Contractor shall furnish and deliver to the Government but without additional cost therefor the following engineering data.

* * * Vandykes of bill of material covering said articles.

* * * Handbook of Instructions and Parts Catalog covering said articles.

Priced parts list in vandyke form to permit procurement of spare parts for Regulator Assemblies, Oxygen, called for hereunder while same are in production.

ART. 19. *Options.* The Government is granted the right and option at any time within * * * days from and after the date of approval of this contract to increase the quantity or quantities of the articles called for under the terms of Article 16 of this contract.

The Government is granted the further right and option at any time during the life of this contract to increase the quantity or quantities of the supplies called for under the terms hereof, at not more than the unit prices stipulated.

ART. 21. *Termination when contractor not in default.* If, in the opinion of the Contracting Officer upon the approval of the Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the Contracting Officer to the contractor.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authorities, the available balances of which are sufficient to cover cost of same:

AC 30 P 85-3059 A 0705-01	$10,340.00
AC 28 P 82-1280 A 0705-01	109,127.25
AC 34 P 12-3037 A 0705-01	2,081,500.00

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40-5748; Filed, December 19, 1940; 10:17 a. m.]

[Contract No. W227-sc-2642 File No. 1780-NY-41 OCSO-DP-41-227]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: RCA MANUFACTURING COMPANY, INC., CAMDEN, NEW JERSEY

Contract for: Radio Receiver * * * with Associated Parts. Amount: $2,119,739.28.

Place: New York Signal Corps Procurement District, 1st Avenue and 58th Street, Brooklyn, New York.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority SC–1313–P–5–3053–A–0605–01, the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 14th day of November 1940.

Scope of this contract. The contractor shall furnish and deliver to the Government * * * Radio Receiver * * * with Associated Parts, for the consideration stated Two Million One Hundred Nineteen Thousand Seven Hundred Thirty-Nine Dollars and Twenty-Eight cents ($2,119,739.28) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Changes. Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

Delays—Damages. If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

The prices stated herein are based upon an understanding between the parties hereto that the Government will provide, by a separate Emergency Plant Facilities Contract, for the additional facilities needed by the contractor for the performance of this contract, and that no part of the cost of such additional facilities is included in the prices stated.

If the parties hereto enter into an Emergency Plant Facilities Contract prior to * * * for the additional facilities needed by the contractor for the performance of this contract, the obligations of the contractor under this contract shall remain in full force and effect.

Performance bond. Bond, with surety satisfactory to the contracting officer, guaranteeing the faithful performance of the provisions of this contract shall be furnished herewith in the sum of fifteen (15%) per cent of the total consideration of this contract. Amount: $317,960.89.

Increase option. The Government reserves the right at any time within * * * calendar days from and after the date of this contract to increase the quantity or quantities of the supplies called for herein at not more than the unit prices stated.

Award made pursuant to the authority contained under Section 1 (a) of the Act of Congress approved July 2, 1940 (Pub. No. 703, H.R. 9850).

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40–5747; Filed, December 19, 1940; 10:17 a. m.]

[Contract No. W 478 ORD–1307]

SUMMARY OF EMERGENCY PLANT FACILITIES CONTRACT

CONTRACTOR: GREENFIELD TAP & DIE CORPORATION

Contract for: Acquisition or Construction of Emergency Plant Facilities for the manufacture of gages.

Place: Greenfield, Massachusetts.

Estimated Cost of Emergency Plant Facilities: $1,009,000.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purposes set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same:

ORD 7674 P 99 A 0141–01

This Contract, entered into this 27th day of November, 1940.

ARTICLE I. *Emergency plant facilities to be acquired or constructed.* 1. The Contractor shall, with due expedition by contract with others or otherwise, acquire or construct at Greenfield, Massachusetts, the Emergency Plant Facilities generally described below and set forth in further detail in Appendix A hereto annexed, furnishing or causing to be furnished the labor, materials, tools, machinery, equipment, facilities, supplies and services, and doing or causing to be done all other things necessary for the acquisition or construction of such Emergency Plant Facilities. The Emergency Plant Facilities are designated as constituting Additions to an Existing Plant. All of said Emergency Plant Facilities shall be in general accordance with the instructions and description in Appendix A.

2. It is estimated that the total cost of the acquisition or construction of the Emergency Plant Facilities will be approximately one million nine thousand dollars ($1,009,000.).

3. The Contractor may at any time make changes in or additions to the schedules in Appendix A: *Provided, however,* That if any such change will cause delay in the completion or material alteration in the character of the work to be done under this contract, or will result in an estimated increase in the cost of the Emergency Plant Facilities of more than five hundred dollars ($500.00), the written consent of the Contracting Officer to such change shall be first obtained.

4. The title to all the Emergency Plant Facilities shall be in the Contractor. The Contractor shall, however, allow no mortgage or other lien to be an encumbrance upon the Emergency Plant Facilities (including the lien of any mortgage now existing upon property of the Contractor and any lien existing upon the facilities prior to their acquisition).

5. The Contractor shall, not later than the 15th day of each full calendar month after the date hereof, furnish the Contracting Officer a monthly statement certified as correct by the Contractor, and within 60 days after the close of each fiscal year an annual statement, certified as correct by an independent public accountant approved by the Contracting Officer, showing in detail the amount, if any, expended during the preceding calendar month or fiscal year, respectively, in connection with the acquisition or construction of the Emergency Plant Facilities. This amount shall not include any profit to the Contractor (except as provided in sub-paragraph (5) of paragraph (a) of section 6 of this Article) nor the cost of obtaining and furnishing such annual statement but may include an amount to cover the costs of the services performed by the Contractor's organization and other carrying charges during construction to the extent set forth in Section 6 of this Article, and interest on funds expended as provided in Section 7 of this Article.

7. Except as provided in Sections 5 and 6 of this Article, no salaries of the Contractor's executive officers, no part of the expense incurred in conducting the Contractor's main office or regularly established branch offices, and no overhead expenses of the Contractor of any kind shall be included in the cost of the work as set forth in the Final Cost Certificate.

9. In the event that, after the filing of the Final Cost Certificate in connection with the Emergency Plant Facilities described in Appendix A, the Contracting Officer shall determine that further Emergency Plant Facilities, either in connection with a Complete Separate Plant or an addition to an Existing Plant are required for the purpose contemplated in this contract, he may enter into a contract amending this contract and Appendix A and the additional cost of such further Emergency Plant Facilities shall be determined by the filing of an

amendment to the Final Cost Certificate in the same manner as hereinbefore provided in respect of the Final Cost Certificate.

ART. II. *Payments to contractor by Government.* 1. The amount to be paid by the Government to the Contractor under this contract in respect of the Emergency Plant Facilities set forth in Appendix A, as from time to time amended, shall, subject to the provisions of Section 2 of this Article, be the total amount set forth in the Final Cost Certificate. In the event that changes or additions shall be made in respect of the Emergency Plant Facilities with the written consent of the Contracting Officer in accordance with the provisions of Section 3 of Article I or in the event that this contract and Appendix A shall be amended as provided in Section 9 of Article I or an additional Final Cost Certificate shall be filed pursuant to Section 1 of Article IV, the amount to be paid by the Government shall, subject to the provisions of Section 2 of this Article, be the total of the amounts set forth in the Final Cost Certificate and any and all amendments thereto and any additional Final Cost Certificate. In no event shall the total amount to be paid by the Government pursuant to this Section exceed One Million Nine Thousand Dollars ($1,009,000.00), or such larger sum as the Secretary of War or his duly authorized representative may from time to time approve. The amount to be paid by the Government is herein sometimes referred to as the Government Reimbursement for Plant Costs.

There shall become due by the Government to the Contractor as Government Reimbursement for Plant Costs, on the last day of each of sixty (60) consecutive calendar months beginning with such first calendar month, 1/60th of the Government Reimbursement for Plant Costs so determined and the Government shall pay such amounts to the Contractor when and as the same become due; *Provided*, That if the Final Cost Certificate is not filed with the Government until after the calendar month in which the acquisition, construction and installation of the Emergency Plant Facilities are completed, then the Government shall pay to the Contractor on the last day of the calendar month succeeding the month in which the Final Cost Certificate is delivered to the Government the amount then payable in respect of the calendar months then elapsed beginning with the calendar month following the completion of the acquisition, construction and installation of the Emergency Plant Facilities; and thereafter the Government shall pay to the Contractor on the last day of each month 1/60 of the Government's Reimbursement for Plant Costs, as established by the Final Cost Certificate, until the entire amount thereof shall have been paid.

All costs incurred and all payments made by the Contractor prior to and in connection with such termination of this Contract and with the termination of any contracts or commitments entered into by the Contractor for the purposes of this contract, and in connection with the performance in whole or in part of any such contracts or commitments which shall not be terminated (or until the same are terminated), shall be a part of the Government Reimbursement for Plant Costs and included in the Final Cost Certificate provided to be filed under Section 5 of Article I hereof in the event of termination prior to completion of the acquisition and construction. In the event of such termination of this contract, payment to the Contractor of the Government Reimbursement for Plant Costs shall be made promptly and in any event not later than 60 days following the date of filing of the Final Cost Certificate.

ART. III. *Disposition of emergency plant facilities on termination or completion of contract*—1. *Notice of Termination.* The Contracting Officer may at any time give written notice (hereinafter called the Termination Notice) to the Contractor terminating this contract. Upon receipt of the Termination Notice the Contractor shall, in the event that the acquisition and construction of the Emergency Plant Facilities shall not have been completed, proceed with the steps to be taken by it under Section 5 of Article II. If, either during any 90-day period after the completion of the acquisition and construction of the Emergency Plant Facilities the same are not used to a substantial extent by the Contractor for manufacturing and furnishing gages for the purposes of national defense, or if the Government shall fail, the Contractor not being in default hereunder, to make to the Contractor payment of any installment of the Government Reimbursement for Plant Costs within ninety days after the same shall have become due and payable, the Contractor may give a similar termination notice to the Contracting Officer after the expiration of such 90-day period.

2. *Rights of the Contractor.* The Contractor shall have the right, exercisable by a written notice (hereinafter referred to as the Retention Notice), given within 90 days (1) after the giving of a Termination Notice by either party, or (2) after the termination of this contract under Section 3 of Article II hereof, or (3) after the Government has paid the Contractor the entire amount of the Government Reimbursement for Plant Costs as provided in Section 1 of Article II hereof, to retain under this paragraph for its own use outright, free of any interest. With respect to any such Addition to an Existing Plant or with respect to the entire Emergency Plant Facilities which are designated for retention by the Contractor, the Contractor shall, subject to the provisions of paragraph (d) of this Section, if a less amount shall not have been agreed upon and approved as representing the then actual fair value under paragraph (b) of this Section, pay to the Government an amount equal to the cost thereof as established by the Final Cost Certificate, and any amendments thereto and any Additional Final Cost Certificates, reduced to the extent appropriate by the application or payment of excess insurance proceeds, if any, under Section 1 of Article IV, (or, if the acquisition and construction of the Emergency Plant Facilities shall not have been completed, as established as of the date of the Retention Notice by the approved public accountant), less an amount representing depreciation, obsolescence and loss of value due to use for national defense purposes for each year or portion of a year elapsed from the date of acquisition or completion of construction thereof to the date of the Termination Notice at the rate or rates specified as applicable in Appendix B, annexed hereto, and less the amount of any destruction or damage caused by the operation of any risk not required to be covered by insurance carried by the Contractor, as provided for in Section 1 of Article IV.

(b) In respect of any Addition to an Existing Plant, or of the entire Emergency Plant Facilities which the Contractor shall have designated in the Retention Notice for negotiation under this paragraph, the Contractor shall have the right to negotiate with the Contracting Officer with reference to the retention of the same free of any interest of the Government upon the payment to the Government of an amount, less than the amount determined under paragraph (a) above as representing the presently estimated fair value thereof as of the date of the Retention Notice; and upon the establishment between the Contractor and the Contracting Officer of such lesser actual fair value and approval of the same by the Secretary of War or his duly authorized representative, the Contractor shall, upon payment or tender of the amount or upon settlement of the balance due to or from the Government under paragraph (d) of this Section, have the right to retain for its own use outright free of any interest of the Government, any such Addition to an Existing Plant or the entire Emergency Plant Facilities. In the event that, within a period of 90 days from the date of Retention Notice the Contractor and Contracting Officer are unable to agree upon the fair value of any such Addition to an Existing Plant, or of the entire Emergency Plant Facilities, or in the event that the fair value thereof so agreed upon shall not be approved by the Secretary of War or his duly authorized representative, the Contractor shall, upon the expiration of said period or earlier at the election of the Contractor, either pay to the Government in respect of the retention of any such facilities, the applicable amount under paragraph (a) of this Section, or as to any such Addition to an Existing Plant, or the entire Emergency Plant Facilities, transfer the same (including any ma-

chinery, equipment, or buildings, or part thereof, but not including the title to any land) promptly to the Government free and clear of all mortgages or liens not theretofore consented to by the Secretary of War or his duly authorized representative, and, at the Contractor's election, require the removal of all or any part thereof by the Government from the premises altogether.

(c) In respect of any of the Emergency Plant Facilities not designated in the Retention Notice for either retention by the Contractor or for negotiation, the Contractor shall promptly after the giving of the Retention Notice transfer the same (including any machinery, equipment, buildings, or part thereof, but not including the title to any land) to the Government free and clear of all mortgages or liens not theretofore consented to by the Secretary of War or his duly authorized representative. If no Retention Notice be given within the time allowed for such notice under Section 2 of this Article, the Contractor shall promptly upon the termination of the time allowed for such notice transfer the entire Emergency Plant Facilities (including any machinery, equipment, buildings or part thereof, but not including the title to any land) to the Government free and clear of all mortgages and liens not theretofore consented to by the Secretary of War or his duly authorized representative.

(d) Any sums to be paid by the Contractor to the Government under paragraph (a) and/or paragraph (b) of this Section shall be reduced by the amount of any sums to be paid by the Government to the Contractor on account of Government Reimbursement for Plant Costs under Article II hereof and not theretofore paid by the Government, and, if the sum so to be paid by the Government to the Contractor and then remaining unpaid shall exceed the amount to be paid by the Contractor under both of said paragraphs, the Government shall promptly pay to the Contractor the amount of such excess: *Provided, however*, That in the event that the Contractor shall retain under paragraphs (a) and (b) above any facility the acquisition or construction of which is not complete at the date of the Retention Notice and in respect of which therefore no payment has been made by the Government, the Contractor shall retain the same without payment and the amount of the Government Reimbursement for Plant Costs shall be reduced by the cost thereof, determined as hereinbefore provided in Section 1 of Article II hereof. In the event that the Contractor shall elect to retain none of the Emergency Plant Facilities under either paragraph (a) or paragraph (b) above, upon transfer thereof to the Government, there shall become due, and the Government shall promptly pay to the Contractor, the entire balance of the sum to be paid by the Government to the Contractor on account of the Government Reimbursement for Plant Costs not theretofore paid. All payments provided for under this paragraph shall be subject to the provisions of Section 2 of Article II.

(e) The Contractor shall have the right, with respect to any of the facilities not retained by the Contractor under paragraphs (a) or (b) of this Section, to negotiate with the Contracting Officer with reference to the leasing of all or any part thereof for such period and upon such terms (including provision for renewal and an option to purchase the same) as the Contractor and the Contracting Officer may agree upon, subject to the approval of the Secretary of War or his duly authorized representative.

(f) The Government agrees, so far as it lawfully may, with respect to any facilities transferred to it or removed by it pursuant to this Article III that it will at no time use the same or any of them for business or commercial purposes, provided that the Government may at any time use any of such facilities for national defense or for any purpose incident to the conduct or execution of any act of Congress or any order of the President of the United States. The Government further agrees that if the Government desires to sell or lease such facilities or any part thereof, it will not do so without giving the Contractor, to the extent permitted by law, a reasonable opportunity to purchase or lease the facilities proposed to be sold or leased at the same price or rental at which it is proposed to sell or lease them to any other party.

3. *Rights of the Government.* (a) The Contractor agrees to furnish promptly to the Government in regard to any Emergency Plant Facilities which it transfers to the Government under any provision of Section 2 of this Article, without extra compensation therefor, all designs, drawings, specifications, blue prints, notes and data directly pertaining to such facilities only and which are a part of such facilities, including those relating to equipment, dies, tools, jigs and fixtures which are a part of such facilities, but not including those relating to devises, methods, or processes developed by the Contractor itself or those used in connection with such facilities.

(b) In respect of any item or group of items of the Emergency Plant Facilities constituting an Addition to an Existing Plant which are transferred to the Government under any provision of Section 2 of this Article and the removal of which is not required by the Contractor, the Contractor shall have the right to use the same, if and to the extent that such facilities have replaced other facilities of the Contractor and are necessary to enable it to conduct its normal operations, provided that during such use the Contractor shall pay to the Government on the first day of such use and thereafter on the same day of each succeeding month of such use a sum equal to $\frac{1}{12}$th of four (4) per cent of the total cost, as established by the final Cost Certificate and any amendments thereto and Additional Final Cost Certificates, of the facilities so used. The Contractor shall at its expense, care for, maintain, and insure, to the extent approved or required by the Secretary of War or his duly authorized representative, such facilities left in place by the Government which the Contractor is entitled under this Section to use to enable it to conduct its normal operations, so long as the Contractor so uses the same under this paragraph; and upon written request from the Secretary of War or his duly authorized representative, shall further care for and maintain to the extent approved or required by such written request, all other facilities transferred to the Government, the removal of which shall not have been required by the Contractor, and which may be left in place by the Government, as standby capacity for the account of the Government so long, subject to the provisions of paragraph (c) of Section 3 of this Article, as the Government shall duly and promptly pay the Contractor monthly, less any sums due the Government from the Contractor under this contract, any and all expense, upon the submission of duly certified invoices therefor, incurred and paid by the Contractor in the preceding calendar month for the maintenance, care, protection, and repair of such facilities, including any and all taxes assessed thereon or in respect thereof, and all costs of insurance carried for the protection thereof and any and all other expenses and cost of every sort incident thereto: *Provided, however*, That the Contractor may at any time on 90 days' written notice to the Secretary of War terminate the obligation to care for and maintain such facilities and require the removal of the same upon the same terms as under paragraph (b) of Section 2 of this Article. Such facilities, the removal of which shall not have been required by the Contractor and which shall have been left in place by the Government, which the Contractor under this Section is not entitled to use to enable it to conduct its normal operations or which shall not have been leased to the Contractor, may be removed by the Government at any time regardless of such notice from the Contractor; and facilities left in place which the Contractor is so entitled to use to enable it to conduct its normal operations and which are in use for or required by commitments theretofore undertaken by the Contractor, may be removed by the Government regardless of such notice from the Contractor, at any subsequent time when such removal will not impede or interfere with the Contractor's performance of such commitments. The Contractor shall allow the Government or its duly authorized representatives such access to the Contractor's land, buildings and facilities as may be reasonably necessary for the removal of such facilities.

ART. IV. *Loss or destruction of facilities and maintenance.* 1. In the event that all of the Emergency Plant Facilities or any item or group of items thereof shall, prior to the transfer by the Con-

tractor to the Government, be destroyed or damaged by the operation of any risk required to be covered in respect of such facilities in insurance under Section 4 of Article I hereof, or of any risk in respect thereof actually covered by insurance carried by the Contractor, the Contractor shall immediately notify in writing the Contracting Officer and may on its own initiative, and the Government may by written notice given within 60 days require the Contractor to, apply the proceeds of the insurance coverage in respect of such facilities to the restoration, reconditioning or replacement thereof.

2. The Contractor shall be responsible, prior to the transfer thereof to the Government, for the care and maintenance of the Emergency Plant Facilities. All items of such facilities transferred by the Contractor to the Government under Article III hereof shall be in a good state of maintenance and repair; except for destruction or wear or damage normally incident to the production carried on by the Contractor and for destruction or damage arising out of the causes or risks not normally incident to such production which shall not be or have been provided for by restoration, reconditioning, or replacement pursuant to paragraph (a) of Section 1 above.

ART. VII. *Assignment of contractor's claims.* 1. Claims for monies due or to become due to the Contractor from the Government arising out of this contract may be assigned to any bank, trust company or other financing institution, including any Federal lending agency: and any such assignment may cover all or any part of any claim or claims arising or to arise out of this contract and may be made to any one or more such institutions or to any one party as agent or trustee for two or more such institutions participating in the financing of this contract. Any claims so assigned may be subject to further assignment; and any bond, promissory note or other evidence of indebtedness secured by any such assignment may be rediscounted, hypothecated as collateral for a loan or credit, or sold with or without recourse. In the event of the assignment or reassignment of any claim for monies due or to become due under this contract the assignee thereof shall file written notice of the assignment together with a true copy of the instrument of assignment with (a) the General Accounting Office of the Government, (b) the Contracting Officer or the Secretary of War (c) the surety or sureties upon the bond or bonds, if any, in connection with such contract. In no event shall copies of any plans, specifications or other similar documents marked "SECRET", "CONFIDENTIAL", or "RESTRICTED", and annexed or attached to this contract be furnished to any assignee of any claim arising under this contract or to any other person not otherwise entitled to receive the same.

ART. VIII. *Tax amortization.* 1. Inasmuch as it is the intent of Sections 23 and 124 of the Internal Revenue Code, unless payments made on account of Government Reimbursements for Plant Costs are included in gross income, not to allow (1) the tax deduction for amortization over a 60-month period of the Emergency Plant Facilities or (2) the inclusion of such payments in invested capital for purposes of the excess-profits tax, the Contractor agrees that, if such payments, to the extent they constitute reimbursements for capital expenditures made in acquisition or construction of such Emergency Plant Facilities, are not includible in gross income, then, for Federal tax purposes, (1) the basis of such Emergency Plant Facilities except for the costs resulting to the Contractor because of the deductions from the Government Reimbursement for Plant Costs provided for in Section 2 of Article II, shall be computed without taking into account capital expenditures for which the Contractor has been or will be so reimbursed and (2) the amount of such reimbursements shall not be treated as paid-in surplus or contributions to capital for purposes of the excess-profits tax. In the event that the Contractor makes application to the Advisory Commission to the Council of National Defense and to the War Department for a certificate with respect to terms contained in this contract or the necessity for any item or group of items of the Emergency Plant Facilities under Sections 23 and 124 of the Internal Revenue Code in accordance with rules governing such applications and the Contractor is thereafter refused the issuance of such certificate by either such Commission or the War Department, this contract shall terminate forthwith with the same effect as though a termination notice had been filed pursuant to Section 1 of Article III hereof.

This contract is authorized by the following laws:

Act of July 2, 1940 (Public No. 703, 76th Congress).

Act of September 9, 1940 (Public No. 781, 76th Congress).

NEAL H. MCKAY,
Major, Quartermaster Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 40–5750; Filed, December 19, 1940; 10:18 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 1495–FD]

IN THE MATTER OF BIG EAGLE COAL COMPANY, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 27, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on December 3, 1940, by Edmor Coal Co., a code member, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 24, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Directors Room, Municipal Building, Bluefield, W. Va.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under Section 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to Sections 4 II (*j*) and 5 (*b*) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified, that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto,

whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows:

Selling coal during November, 1940, produced at its Roberts Mine, Index No. 542, located in McDowell County, West Virginia, to Welch Emergency Hospital, located at Welch, West Virginia, and failing to add to the applicable effective minimum price therefor, not less than the actual cost of delivery thereof, which was made in transportation facilities owned or controlled by the defendant.

Dated: December 17, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–5744; Filed, December 19, 1940; 10:10 a. m.]

[Docket No. 1496–FD]

IN THE MATTER OF JAMES FRUIA, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 27, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on December 3, 1940, by Edmor Coal Co., a code member, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on January 24, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at the Directors Room, Municipal Building, Bluefield, W. Va.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under Section 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to Sections 4 II (*j*) and 5 (*b*) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified, that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows:

Selling coal during November, 1940, produced at its North Pole Mine, Index No. 540, located in McDowell County, West Virginia, to Peerless Laundry and J. C. Summers, located at Welch, West Virginia, and failing to add to the applicable minimum price therefor, not less than the actual cost of delivery thereof, which was made in transportation facilities owned or controlled by the defendant.

Dated: December 17, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–5745; Filed, December 19, 1940; 10:10 a. m.]

[Docket No. A–78]

PETITION OF THE TECUMSEH COAL CORP. FOR REVISION OF THE EFFECTIVE MINIMUM PRICES FOR THE COALS OF MINE INDEX NO. 105, DISTRICT 11, IN SIZE GROUPS 17–25, INCLUSIVE, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER CONTINUING HEARING

The original petitioner in the above-entitled matter has filed a motion to close the hearing therein, heretofore continued until December 17, 1940, urging in support thereof that it is advised that none of the parties to the proceeding intend or desire to introduce any further testimony. In addition, the original petitioner, together with six other parties of record in the above-entitled matter, has filed a stipulation whereby the issue to be determined therein would be restricted to the propriety of the minimum prices established for the coals of Mine Index No. 105, District 11, in Size Groups 17 to 25, inclusive, when such coals are sold to the Indianapolis Power and Light Company. This stipulation sets forth that it shall become binding only if and when it is joined in by the original petitioner and every intervener in the above-entitled matter.

Some of the parties have informally indicated that they do not oppose the motion to close the hearing. Others have informally indicated their willingness that the hearing be closed, subject, however, to the condition that all parties have signed the afore-mentioned stipulation restricting the issue in this proceeding. That condition has not been met. Some of the parties to this proceeding have neither consented to the motion to close the hearing, nor signed the aforesaid stipulation.

Now, therefore, it is ordered, That the hearing in the above-entitled matter be continued until 10 o'clock in the forenoon of January 10, 1941, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. At such time the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–5762; Filed, December 19, 1940; 11:30 a. m.]

[Docket No. A–274]

PETITION OF KANAWHA AND HOCKING COAL AND COKE COMPANY FOR COMPETITIVE PRICES FOR SHIPMENTS TO SPECIFIED CONSUMERS IN CHARLESTON, WEST VIRGINIA, AND VICINITY

ORDER DISMISSING PETITION AND WITHDRAWING TEMPORARY RELIEF

A hearing in the above-entitled matter having been scheduled for December 11, 1940, at 10 a. m.; and

Petitioner having requested by telegraph on the day preceding the hearing that its petition be withdrawn from consideration under section 4 II (d) of the Bituminous Coal Act of 1937 and hereinafter considered as a petition under section 4–A of said Act; and

An informal conference having previously been held pursuant to the rules and regulations governing petitions filed under section 4 II (d) of the Act and as a result thereof temporary relief

having been granted in part by order dated November 20, 1940:

It is ordered, That the petition is dismissed as a proceeding under section 4 II (d) of the Act and is considered as an application for exemption under section 4-A of said Act; and

It is further ordered, That the temporary relief granted to petitioner by the order dated November 20, 1940, is withdrawn, effective 10 days from the date of this order.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5763; Filed, December 19, 1940; 11:30 a. m.]

[Docket Nos. A-401, and A-424]

PETITION OF DISTRICT BOARD 9 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED, PURSUANT TO SECTION 4 II (D) OF THE BITUMINOUS COAL ACT OF 1937

ORDER OF CONSOLIDATION WITH DOCKET NOS. A-286 AND A-396

A hearing having been set in the matters in Dockets A-401 and A-424 for January 22, 1941, and a hearing having been set in the matters in Docket Nos. A-286 and A-396 for January 22, 1941, and it appearing that the matters in all of the above-mentioned dockets concern the establishment of price classifications and minimum prices for coals of mines in District No. 9 not heretofore classified and priced;

It is ordered, That the hearing in the matters in Docket Nos. A-401 and A-424 be consolidated for hearing with the matters in Docket Nos. A-286 and A-396 and that the hearing be held on January 22, 1941, at 10 o'clock in the forenoon of that day in Washington, D. C., before the examiner heretofore designated to preside at the hearing in Docket Nos. A-286 and A-396 or any other officers of the Division duly designated to preside in such matters.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5761; Filed, December 19, 1940; 11:29 a. m.]

[Docket No. A-374]

PETITION OF DISTRICT BOARD 5 FOR REVISION OF THE EFFECTIVE MINIMUM PRICE FOR 1/4" x 2" COAL PRODUCED IN DISTRICT NO. 5

NOTICE OF AND ORDER FOR HEARING ON TEMPORARY AND PERMANENT RELIEF

An original petition, requesting temporary and permanent relief, having been duly filed with this Division by the above-named party, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937;

It is ordered, That a hearing on the prayers for temporary and permanent relief in the above-entitled matter be held, under the applicable provisions of said Act, and the rules and regulations of the Division, on January 7, 1941, at 2 o'clock p. m. (eastern standard time) in a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

It is further ordered, That Charles S. Mitchell or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become parties herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 1, 1941.

The matter concerned herewith is in regard to a petition of District Board 5 praying for revision of effective minimum prices for 1/4" x 2" coal produced in District No. 5.

All persons are hereby notified that the hearing in the above-entitled matter and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of interveners, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5765; Filed, December 19, 1940; 11:31 a. m.]

[Docket No. A-384]

PETITION OF W. T. LYONS, A PRODUCER IN DISTRICT NO. 3, FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF THE LYONS MINE, MINE INDEX NO. 1008, NOT HERETOFORE CLASSIFIED AND PRICED

ORDER OF DISMISSAL

Original petition, pursuant to section 4 II (d) of the Bituminous Coal Act, having been duly filed with this Division in the above-entitled matter; and

It appearing that a petition, similar in all material respects to the petition in the above-entitled matter, has been previously filed with this Division by the same petitioner in a matter now pending final disposition;

It is ordered, That the petition in the above-entitled matter be, and the same hereby is, dismissed.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5764; Filed, December 19, 1940; 11:30 a. m.]

[Docket Nos. A-408, A-281]

PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED; PETITION OF L. DEWEY YOMMER, A CODE MEMBER OF DISTRICT NO. 1, FOR ADDITIONAL CLASSIFICATIONS IN SIZE GROUPS AND THE ESTABLISHMENT OF MINIMUM PRICES FOR CERTAIN COALS OF THE SHADE MINE (MINE INDEX NO. 456)

ORDER OF CONSOLIDATION AND NOTICE OF AND ORDER FOR HEARING AND GRANTING TEMPORARY RELIEF

Petitions, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above named parties;

It is ordered, That the above entitled matters be consolidated for the purposes of hearing, of determination and for such other purposes as the officer hereinafter designated to preside at such hearing may deem appropriate;

It is further ordered, That a hearing in said matters, under the applicable provisions of said Act and the rules of the Division, be held on January 10, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matters. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to

administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to these proceedings may file a petition of intervention in accordance with the Rules and Regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petitions is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before January 5, 1941.

All persons are hereby notified that the hearing in the above entitled matters and any orders entered therein, may concern, in addition to the matters specifically alleged in the petitions, other matters necessarily incidental and related thereto, which may be raised by amendment to the petitions, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of the petitions hereinbefore filed.

The matters concerned herewith are, as to Docket No. A–408, in regard to the establishment of effective minimum prices for the coals of certain mines hereinafter referred to, located in District No. 1, for which coals price classifications and minimum prices have not heretofore been established, and, as to Docket No. A–281, in regard to additional classifications in size groups and the establishment of minimum prices of certain coals of the Shade Mine (Mine Index No. 456) located in said district.

It is further ordered, That, a reasonable showing of the necessity therefor having been made, pending final disposition of the petitions in the above-entitled matters, temporary relief be and it is hereby granted as follows: Commencing henceforth the coals referred to in the schedule marked "Temporary Supplement" dated this day, annexed hereto and hereby made a part hereof,[1] shall be classified and subject to minimum prices as provided in said schedule.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–5766; Filed, December 19, 1940; 11:31 a. m.]

[Docket No. 1488–FD]

IN THE MATTER OF BLUE RIDGE COAL COMPANY, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 30, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on December 2, 1940, by Bituminous Coal Producers Board for District No. 15, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on February 4, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at Room 531, Federal Building, Kansas City, Missouri.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under §301.-123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: That the defendant sold a substantial quantity of lump coal on October 5, 1940, produced at its Blue Ridge Strip Mine in Vernon County, Missouri, to the Pohl Brick and Tile Company, located at Fort Scott, Kansas, and shipped via truck to Fort Scott at the price of run of mine coal, to wit: $2.20 per ton, whereas the established minimum price for said coal was $2.60 per ton. It is alleged that said coal was thus sold for less than the effective minimum price for such coal.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–5756; Filed, December 19, 1940; 11:28 a. m.]

[Docket No. 1489–FD]

IN THE MATTER OF J. E. GORHAM, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 30, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on December 2, 1940, by Bituminous Coal Producers Board for District No. 15, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on February 4, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at Room 531, Federal Building, Kansas City, Missouri.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to

[1] Not filed as a part of the original document.

conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: That the defendant sold substantial quantities of coal during October, 1940, to Hubert Engle at $2.00 per ton, f. o. b. the mine, which was 30 cents per ton less than the effective minimum price for said coal. Said coal was produced at the Gorham Mine, Randolph County, Missouri, and was sold during the month of October 1940.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5759; Filed, December 19, 1940; 11:29 a. m.]

[Docket No. 1490-FD]

IN THE MATTER OF JOHN W. PATCH, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 30, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on December 2, 1940, by Bituminous Coal Producers Board for District No. 15, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on February 4, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at Room 531, Federal Building, Kansas City, Missouri.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: That the defendant sold and offered for sale substantial quantities of lump (Size Group No. 2) coal to various customers located in Miami, Commerce, and Picher, Oklahoma, at $2.80 per ton, f. o. b. the mine, which was 50 cents per ton below the effective minimum price for said coal. Said coal was sold during the month of October 1940, and was shipped via truck.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-5760; Filed, December 19, 1940; 11:29 a. m.]

[Docket No. 1491-FD]

IN THE MATTER OF MAGIC CITY COAL COMPANY, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 30, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on December 2, 1940, by Bituminous Coal Producers Board for District No. 15, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on February 4, 1941, at

10 a. m., at a hearing room of the Bituminous Coal Division at Room 531, Federal Building, Kansas City, Missouri.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: (1) That the defendant sold and delivered 358 tons of Size Group No. 2 (lump) coal having an applicable effective minimum price of $3.30 per ton as Size Group No. 9 (mine run) coal having an applicable effective minimum price of $2.20 per ton. Said coal was sold between September 30, 1940, and the date of the complaint at less than the effective minimum price as aforesaid. It was delivered via truck. (2) That the defendant granted rebates and other allowances of approximately 80 cents per net ton on coal sold and delivered by it between September 30, 1940, and the date the complaint was filed in violation of section 13, Rule 4, of the Marketing Rules and Regulations.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–5757; Filed, December 19, 1940; 11:28 a. m.]

[Docket No. 1492–FD]

IN THE MATTER OF WARREN LITTLE (DOUBLE EAGLE COAL CO.), DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated November 30, 1940, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on December 2, 1940, by Bituminous Coal Producers Board for District No. 15, a District Board, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on February 4, 1941, at 10 a. m., at a hearing room of the Bituminous Coal Division at Room 531, Federal Building, Kansas City, Missouri.

It is further ordered, That Charles O. Fowler or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the complaint must be filed with the Bituminous Coal Division at its Washington office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminuous Coal Code or rules and regulations thereunder as follows: That on October 5, 1940, the defendant sold 42 tons of Size Group No. 2 (lump) coal having an applicable effective minimum price of $2.60 per net ton, f. o. b. the mine, as Size Group No. 9 (mine run) coal having an applicable effective minimum price of $2.20 per net ton, f. o. b. the mine. Said coal was produced at defendant's Double Eagle Mine, Bourbon, Kansas, and was sold at $2.20 per net ton, f. o. b. the mine, which was, as aforesaid, 40 cents per ton less than the effective minimum price established therefor.

Dated: December 18, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40–5758; Filed, December 19, 1940; 11:28 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[RCP–1940 Meagher County, Montana, 1]

1940 RANGE CONSERVATION PROGRAM BULLETIN FOR MEAGHER COUNTY, MONTANA

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1940 Range Conservation

Program Bulletin for Meagher County, Montana,[1] is hereby amended as follows:

The first paragraph of Section 1 is hereby amended to read as follows:

SECTION 1. *Rates of range-building payments.* Within the limits of the range-building allowance and subject to the conditions hereinafter set forth, payment will be made for carrying out on range land in 1940 such of the range-building practices listed in this section as are approved by the county committee for the ranching unit prior to their institution: *Provided,* That payment for range-building practices other than (a), natural reseeding by limited grazing, shall not exceed 60 per cent of the range-building allowance computed under Section 2 (a), plus the range-building allowance computed under Section 2 (b), less any deductions provided for in Section 3 (c).

Done at Washington, D. C., this 18th day of December 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 40-5770; Filed, December 19, 1940; 11:34 a. m.]

DEPARTMENT OF LABOR.

Division of Public Contracts.

IN THE MATTER OF MODIFICATION OF DECISIONS OF SECRETARY OF LABOR IN COTTON GARMENT AND ALLIED INDUSTRIES AND IN MEN'S RAINCOAT INDUSTRY

NOTICE OF OPPORTUNITY TO SHOW CAUSE

Notice is hereby given to all interested parties that they are allowed until December 28, 1940, to show cause if any they have why the Secretary's decision of July 28, 1937 (2 F.R. 1333) in the matter of the determination of the prevailing minimum wages in the Cotton Garment and Allied Industries, and the Secretary's decision of July 28, 1937 (2 F.R. 1336) in the matter of the determination of the prevailing minimum wages in the Men's Raincoat Industry should not be amended to exclude from the Cotton Garment and Allied Industries determination oiled waterproof cotton outergarments and to include that commodity and all other types of rainwear in the Men's Raincoat Industry.

The proposed amendments are based on evidence received that the wages paid in the manufacture of oiled waterproof cotton outergarments and in other types of rainwear generally are similar to those paid in the raincoat industry.

December 18, 1940.

[SEAL] L. METCALFE WALLING,
Administrator.

[F. R. Doc. 40-5742; Filed, December 19, 1940; 9:53 a. m.]

[1] 5 F.R. 938.

IN THE MATTER OF AN EXTENSION TO DECISION OF SECRETARY OF LABOR IN MATTER OF DETERMINATION OF PREVAILING MINIMUM WAGES IN COTTON GARMENT AND ALLIED INDUSTRIES

NOTICE OF OPPORTUNITY TO SHOW CAUSE

Notice is hereby given to all interested parties that they are allowed until December 28, 1940, to show cause if any they have why the Secretary's decision of July 28, 1937 (2 F.R. 1333) in the matter of the determination of the prevailing minimum wages in the Cotton Garment and Allied Industries, as amended from time to time, should not be amended to include the manufacture and supply of—

Ammunition and cartridge belts made of textiles.
Canvas leggins.
Cot covers.
Fabric pouches and carriers for first aid equipment, such as—
Kit cantle ring straps.
Kit inserts.
Kit laces.
Kit pouches.
Kit suspenders.
Mattress covers.
Mosquito bars.
Wardrobe bags with draw-strings made of textiles.

The proposed extension of the above determination to include the manufacture and supply of the products enumerated is based upon evidence received by this Department to the effect that these products are manufactured by substantially the same manufacturing process and the same manufacturers as are the other commodities subject to the determination.

December 18, 1940.

L. METCALFE WALLING,
Administrator.

[F. R. Doc. 40-5741; Filed, December 19, 1940; 9:53 a. m.]

Wage and Hour Division.

NOTICE OF HEARING ON MINIMUM WAGE RECOMMENDATION OF INDUSTRY COMMITTEE NO. 18 FOR THE ENAMELED UTENSIL INDUSTRY

Whereas the Administrator of the Wage and Hour Division of the United States Department of Labor, acting pursuant to Section 5 (b) of the Fair Labor Standards Act of 1938, on November 26, 1940, by Administrative Order No. 72, appointed Industry Committee No. 18 for the Enameled Utensil Industry, composed of an equal number of representatives of the public, employers in the industry and employees in the industry, such representatives having been appointed with due regard to the geographical regions in which the industry is carried on; and

Whereas Industry Committee No. 18, on December 12, 1940, recommended a minimum wage rate for the Enameled Utensil Industry and duly adopted a report containing said recommendation and reasons therefor and has filed such report with the Administrator on December 13, 1940, pursuant to section 8 (d) of the Act and § 511.19 of the regulations isued under the Act; and

Whereas the Administrator is required by section 8 (d) of the Act, after due notice to interested persons and giving them an opportunity to be heard, to approve and carry into effect by order the recommendation of Industry Committee No. 18 if he finds that the recommendation is made in accordance with law and is supported by the evidence adduced at the hearing before him, and, taking into consideration the same factors as are required to be considered by the Industry Committee, will carry out the purposes of Section 8 of the Act; and, if he finds otherwise, to disapprove such recommendations;

Now, therefore, notice is hereby given that:

I. The recommendation of Industry Committee No. 18 is as follows:

Every employer shall pay not less than 40 cents per hour to each of his employees who is engaged in the Enameled Utensil Industry as defined in Administrative Order No. 72, dated November 23, 1940.

II. The definition of the Enameled Utensil Industry, as set forth in Administrative Order No. 72 issued November 26, 1940, is as follows:

The manufacture of culinary, household, and hospital utensils of sheet iron or sheet steel coated with vitreous enamel.

The definition of the enameled utensil industry covers all occupations in the industry which are necessary to the production of the articles specified in the definition, including clerical, maintenance, shipping and selling occupations, provided, however, that this definition does not include employees of an independent wholesaler or employees of a manufacturer who are engaged exclusively in marketing and distributing products of the industry which have been purchased for resale, and provided further that where an employee covered by this definition is employed during the same workweek at two or more different minimum rates of pay, he shall be paid the highest of such rates for such workweek unless records concerning his employment are kept by his employer in accordance with applicable regulations of the Wage and Hour Division.

III. The full text of the report and recommendation of Industry Committee No. 18, together with any dissenting statements which may be filed by a member subsequent to the date of this notice, are and will be available for inspection by any person between the hours of 9:00 a. m. and 4:30 p. m. at the following offices of

the United States Department of Labor, Wage and Hour Division:

Boston, Massachusetts, Walker Building, 120 Boylston Street.
New York, New York, Parcel Post Building, 30th Street & 9th Avenue.
Philadelphia, Pennsylvania, 1216 Widener Building, Chestnut & Juniper Streets.
Pittsburgh, Pennsylvania, 216 Old Post Office Building.
Newark, New Jersey, 1004 Kinney Building, 790 Broad Street.
Richmond, Virginia, 215 Richmond Trust Building, 627 East Main Street.
Baltimore, Maryland, 606 Snow Building, Calvert & Lombard Streets.
Columbia, South Carolina, Federal Land Bank Building, Hampton & Marion Streets.
Raleigh, North Carolina, 507 Raleigh Building, Hargett & Fayetteville Streets.
Atlanta, Georgia, Witt Building, 249 Peachtree Street.
Jacksonville, Florida, New Post Office Building.
Birmingham, Alabama, Comer Building, 2nd Avenue & 21st Street.
New Orleans, Louisiana, Pere Marquette Building, 150 Baronne Street.
Nashville, Tennessee, Medical Arts Building, 119 Seventh Avenue, N.
Cleveland, Ohio, Standard Building, 1370 Ontario Street.
Cincinnati, Ohio, Cincinnati Traction Building, 5th & Walnut Street.
Chicago, Illinois, 1200 Merchandise Mart, 222 West North Bank Drive.
Minneapolis, Minnesota, 406 Pence Building, 730 Hennepin Avenue.
Kansas City, Missouri, 504 Title & Trust Building, 10th & Walnut Streets.
St. Louis, Missouri, 100 Old Custom House Building, 815 Olive Street.
Denver, Colorado, Chamber of Commerce Building, 1726 Champa Street.
Dallas, Texas, 824 Santa Fe Building, 1114 Commerce Street.
San Francisco, California, Room 500, 785 Market Street.
Los Angeles, California, 338 H. W. Hellman Building, 354 South Spring Street.
Seattle, Washington, 206 Hartford Building, 208 James Street.
San Juan, Puerto Rico, Post Office Box 112.
Juneau, Alaska, D. B. Stewart, Commissioner of Mines.
Washington, District of Columbia, Department of Labor, 4th Floor.

Copies of the Committee's report and recommendation, together with any dissenting statement which may be filed by a member subsequent to the date of this notice, may be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C.

IV. A public hearing for the purpose of taking evidence on the question of whether the recommendation of Industry Committee No. 18 shall be approved or disapproved pursuant to section 8 of the Act will be held January 6, 1941, at 10:00 a. m. at Room 3229, Department of Labor Building in Washington, D. C., before Henry T. Hunt, Esquire, Principal Hearings Examiner of the Wage and Hour Division, United States Department of Labor, as presiding officer.

V. Any interested person, supporting or opposing the recommendation of Industry Committee No. 18, may appear at the aforesaid hearing to offer evidence, either on his own behalf or on behalf of any other person: *Provided*, That not later than December 30, 1940, any such person shall file with the Administrator at Washington, D. C., a notice of his intent to appear which shall contain the following information:

1. The name and address of the person appearing.
2. If such person is appearing in a representative capacity, the name and address of the person or persons whom he is representing.
3. Whether such person proposes to appear for or against the recommendation of Industry Committee No. 18.
4. The approximate length of time requested for his presentation.

Such notice may be mailed to the Administrator, Wage and Hour Division, United States Department of Labor, Washington, D. C., and shall be deemed filed upon receipt thereof.

VI. Any person interested in supporting or opposing the recommendation of Industry Committee No. 18 may secure further information concerning the aforesaid hearing by inquiry directed to the Administrator, Wage and Hour Division, United States Department of Labor, Washington, D. C., or by consulting with attorneys representing the Administrator who will be available for that purpose at the offices of the Wage and Hour Division in Washington, D. C.

VII. Copies of the following documents relating to the Enameled Utensil Industry will be made available upon request for inspection by any interested person who intends to appear at the aforesaid hearing:

U. S. Department of Labor, Bureau of Labor Statistics, Division of Wage and Hour Statistics, *Earnings and Hours in the Enameled Utensil Industry, August, 1940.*

U. S. Department of Labor, Wage and Hour Division, Research and Statistics Branch, *Report on the Enameled Utensil Industry, December, 1940.*

U. S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, *Differences in Living Costs in Northern and Southern Cities, July 1939.*

VIII. The hearing will be conducted in accordance with the following rules, subject, however, to such subsequent modifications by the Administrator or the Principal Hearings Examiner as are deemed appropriate:

1. The hearing shall be stenographically reported and a transcript made which will be available to any person at prescribed rates upon request made to the official reporter, Electric Reporting Service, 1707 Eye Street NW., Washington, D. C.

2. In order to maintain orderly and expeditious procedure, each person filing a Notice to Appear shall be notified, if practicable, of the approximate day and the place at which he may offer evidence at the hearing. If such person does not appear at the time set in the notice he will not be permitted to offer evidence at any other time except by special permission of the presiding officer.

3. At the discretion of the presiding officer the hearing may be continued from day to day, or adjourned to a later date, or to a different place, by announcement thereof at the hearing by the presiding officer, or by other appropriate notice.

4. At any stage of the hearing, the presiding officer may call for further evidence upon any matter. After the presiding officer has closed the hearing before him, no further evidence shall be taken, except at the request of the Administrator, unless provision has been made at the hearing for the later receipt of such evidence. In the event that the Administrator shall cause the hearing to be reopened for the purpose of receiving further evidence, due and reasonable notice of the time and place fixed for such taking of testimony shall be given to all persons who have filed a notice of intention to appear at the hearing.

5. All evidence must be presented under oath or affirmation.

6. Written documents or exhibits, except as otherwise permitted by the presiding officer, must be offered in evidence by a person who is prepared to testify as to the authenticity and trustworthiness thereof, and who shall, at the time of offering the documentary exhibit, make a brief statement as to the contents and manner of preparation thereof.

7. Written documents and exhibits shall be tendered in duplicate and the persons preparing the same shall be prepared to supply additional copies if such are ordered by the presiding officer. Where evidence is embraced in a document containing matter not intended to be put in evidence, such a document will not be received, but the person offering the same may present to the presiding officer the original document together with two copies of those portions of the document intended to be put in evidence. Upon presentation of such copies in proper form the copies will be received in evidence.

8. Subpoenas requiring the attendance of witnesses or the presentation of a document from any place in the United States at any designated place of hearing may be issued by the Administrator at his discretion, and any person appearing in the proceeding may apply in writing for the issuance by the Administrator of the subpoena. Such application shall be timely and shall identify exactly the witness or document and state fully the

nature of the evidence proposed to be secured.

9. Witnesses summoned by the Administrator shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance witnesses appear, and the Administrator before issuing subpoena may require a deposit of an amount adequate to cover the fees and mileage involved.

10. The rules of evidence prevailing in the courts of law or equity shall not be controlling.

11. The presiding officer may, at his discretion, permit any person appearing in the proceeding to cross-examine any witness offered by another person in so far as is practicable, and to object to the admission or exclusion of evidence by the presiding officer. Requests for permission to cross-examine a witness offered by another person and objections to the admission or exclusion of evidence shall be stated briefly with the reasons for such request or the ground of objection relied on. Such requests or objections shall become a part of the record, but this record shall not include argument thereon except as ordered by the presiding officer. Objections to the approval of the Committee's recommendation and to the promulgation of a wage order based upon such approval must be made at the hearing before the presiding officer.

12. Before the close of the hearing, the presiding officer shall receive written requests from persons appearing in the proceeding for permission to make oral arguments before the Administrator upon the matter in issue. These requests will be forwarded to the Administrator by the presiding officer with the record of the proceedings. If the Administrator, in his discretion, allows the request, he shall give such notice thereof as he deems suitable to all persons appearing in the proceedings, and shall designate the time and place at which the oral arguments shall be heard. If such requests are allowed, all persons appearing at the hearing will be given opportunity to present oral argument.

13. Briefs (12 copies) may be submitted to the Administrator following the close of the hearing, by any persons appearing therein. Notice of the final dates for filing such briefs shall be given by the Administrator in such manner as shall be deemed suitable by him.

14. On the close of the hearing the presiding officer shall forthwith file a complete record of the proceedings with the Administrator. The presiding officer shall not file an intermediate report unless so directed by the Administrator. If a report is filed, it shall be advisory only and have no binding effect upon the Administrator.

15. No order issued as a result of the hearing will take effect until after due notice is given of the issuance thereof by publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 16 day of December, 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-5776; Filed, December 19, 1940; 11:35 a. m.]

[Administrative Order 77]

APPOINTMENT OF INDUSTRY COMMITTEE NO. 19 FOR THE DRUG, MEDICINE, AND TOILET PREPARATIONS INDUSTRY

1. By virtue of and pursuant to the authority vested in me by the Fair Labor Standards Act of 1938, I, Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor, do hereby appoint and convene for the drug, medicine, and toilet preparations industry (as such industry is defined in paragraph 2) an industry committee composed of the following representatives:

For the Public:

Sumner H. Slichter, Chairman, Cambridge, Massachusetts.
Joseph A. McClain, Jr., St. Louis, Missouri.
Stuart F. Heinritz, New York, New York.
Jonathan Daniels, Raleigh, North Carolina.
Egbert Harold van Delden, New York, New York.
Charles O. Gregory, Chicago, Illinois.

For the Employees:

Herman Edelsberg, Washington, D. C.
Irving Weiland, Brooklyn, New York.
Louis Weiner, Chicago, Illinois.
Leonard Johnston, Kansas City, Missouri.
Boris Shishkin, Washington, D. C.
H. A. Bradley, Akron, Ohio.

For the Employers:

James M. Buck, Jr., Memphis, Tennessee.
Paul Vallee, New York, New York.
M. C. Eaton, Norwich, New York.
George R. Flint, Decatur, Illinois.
Alvin G. Brush, New York, New York.
Edward Beardsley, Elkhart, Indiana.

Such representatives having been appointed with due regard to the geographical regions in which such industry is carried on.

2. For the purpose of this order the term "drug, medicine, and toilet preparations industry" means:

a. The manufacture or packaging of any one or more of the following products:

(1) Drugs or medicinal preparations (other than food) intended for internal or external use in the diagnosis, treatment, or prevention of disease in, or to affect the structure or any function of, the body of man or other animals, or

(2) Dentifrices, cosmetics, perfume, or other preparations designed or intended for external application to the person for the purpose of cleansing, improving the appearance of, or refreshing the person,

(3) Provided that this definition shall not include the manufacture or packaging of shaving cream, shampoo, essential (volatile) oils, glycerine, and soap, or the milling or packaging without further processing of crude botanical drugs.

3. The definition of the drug, medicine, and toilet preparations industry covers all occupations in the industry which are necessary to the production of the articles specified in the definition including clerical, maintenance, shipping, and selling occupations: *Provided, however,* That there shall not be included (a) in establishments, the greater part of whose sales are sales of articles purchased for resale, employees other than those who are engaged directly in the manufacturing or the packaging in consumer packages of products covered by this definition, and (b) employees of a manufacturer who are engaged exclusively in marketing and distributing products of the industry which have been purchased for resale: *And provided further,* That where an employee covered by this definition is employed during the same workweek at two or more different minimum rates of pay, he shall be paid the highest of such rates for such workweek unless records with respect to his employment in segregable occupations are kept by his employer in accordance with applicable regulations of the Wage and Hour Division.

4. The industry committee herein created, in accordance with the provisions of the Fair Labor Standards Act of 1938 and rules and regulations promulgated thereunder, shall meet at the call of its chairman and shall proceed to investigate conditions in the industry and recommend to the Administrator minimum wage rates for all employees thereof who within the meaning of said Act are "engaged in commerce or in the production of goods for commerce," excepting employees exempted by virtue of the provisions of Section 13 (a) and employees coming under the provisions of Section 14.

Signed at Washington, D. C., this 17th day of December, 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-5771; Filed, December 19, 1940; 11:34 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and part 522.5B of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective December 19, 1940.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

Wenzel Tent & Duck Company, 1035 Paul Street, St. Louis, Missouri; Canvas Goods, Tents, Tarpaulins, Truck Covers; 30 learners; 8 weeks for any one learner; 25 cents an hour; Sewing Machine Operators; March 13, 1941.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40–5774; Filed, December 19, 1940; 11:35 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under Section 6 of the Act are issued under Section 14 thereof, part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591)

Artificial Flowers and Feathers Leaner Regulations, October 24, 1940 (5 F.R. 4203)

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748)

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530)

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829)

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982)

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393)

Textile Determination and Order, November 8, 1939 (4 F.R. 4531) as amended, April 27, 1940 (5 F.R. 1586)

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302)

The employment of learners under these certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective December 19, 20, 1940. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

Universal Coat Front Company, 25th and Locust Streets, Philadelphia, Pennsylvania; Apparel; Coat Fronts for Men's Clothing; 5 learners (75% of the applicable hourly minimum wage); December 19, 1941.

Bacmo Postman Corporation, 18–24 Third Avenue, Gloversville, New York; Glove; Leather Dress; 12 learners; August 19, 1941.

Elin Manufacturing Company, 501 Main Street, Rochester, Indiana; Apparel; Work Pants, Shirts, Overalls, Jackets; 10 learners (75% of the applicable hourly minimum wage); April 18, 1941.

Signed at Washington, D. C., this 19th day of December 1940.

MERLE D. VINCENT,
Authorized Representative of the Administrator.

[F. R. Doc. 40–5773; Filed, December 19, 1940; 11:35 a. m.]

NOTICE OF CANCELLATION OF A SPECIAL CERTIFICATE FOR THE EMPLOYMENT OF LEARNERS IN THE APPAREL INDUSTRY

Notice is hereby given that a special certificate for the employment of learners issued to the Gopher Sportswear Company, Minneapolis, Minnesota, effective May 14, 1940, has been cancelled as of the first date of violation pursuant to its terms which provide among other things that it shall be cancelled as of the date of violation if found that any of its terms have been violated. The first date of violation is the beginning date of the payroll period which ended on August 12, 1940.

This cancellation shall not become effective until after the expiration of a fifteen-day period following the date on which this Notice appears in the FEDERAL REGISTER. During this time petitions for reconsideration or review may be filed by any aggrieved person pursuant to Section 522.13 of the Regulations. If a petition is properly filed, the effective date of cancellation shall be postponed until final action sustaining the cancellation is taken on the petition.

Signed at Washington, D. C. this 19th day of December, 1940.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 40–5775; Filed, December 19, 1940; 11:35 a. m.]

FEDERAL POWER COMMISSION.

[Docket No. IT–5563]

IN THE MATTER OF OHIO PUBLIC SERVICE COMPANY

ORDER FIXING DATE OF HEARING

DECEMBER 17, 1940.

It appearing to the Commission that:

(a) On July 14, 1939, the Commission entered an Order to Show Cause directing the Ohio Public Service Company, under oath, to show cause, if any there be, on or before August 15, 1939, (1) why it had failed to comply with Electric Plant Accounts Instruction 2–D of the Commission's Uniform System of Accounts and with the Commission's Order of May 11, 1937; and (2) why the Commission should not institute appropriate proceedings because of such failure;

(b) On August 14, 1939, in response to said Order to Show Cause, the Ohio Public Service Company filed its Answer and Objections to the Jurisdiction of the Commission, denying that it is a public utility subject to the jurisdiction of the Commission under the Federal Power Act.

(c) Said response of the Ohio Public Service Company fails to set forth sufficient facts to enable the Commission to determine the issues involved in its Order to Show Cause of July 14, 1939.

The Commission orders that:

A public hearing be held commencing on January 27, 1941, at 10:00 a. m., in the Hearing Room of the Federal Power Commission, 1757 K St., NW., Washington, D. C., upon the matters set forth in the Commission's Order to Show Cause of July 14, 1939.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40–5753; Filed, December 19, 1940; 10:19 a. m.]

[Docket No. IT-5664]

IN THE MATTER OF MONTANA-DAKOTA UTILITIES CO.

NOTICE OF APPLICATION

DECEMBER 17, 1940.

Notice is hereby given that on December 17, 1940, an application was filed with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act, by Montana-Dakota Utilities Co., a corporation organized under the laws of the State of Delaware and carrying on electric and gas utility business in the States of Montana, North Dakota, South Dakota, and a gas utility business in the State of Wyoming, with its principal business office at Minneapolis, Minnesota, seeking an order authorizing the issuance of $2,500,000 of First Mortgage 2½% Serial Bonds, to be due in various amounts on May 1st in each of the years 1942 to 1949, inclusive, and $7,500,000 of First Mortgage Bonds, 3½% Series due January 1, 1961, of which $4,500,000 are to be retired before maturity through the operation of a sinking fund providing for the retirement of bonds on or before certain specified dates; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest in reference to said application should, on or before the 26th day of December 1940, file with the Federal Power Commission a petition or protest in accordance with the Commission's Rules of Practice and Regulations.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 40-5754; Filed, December 19, 1940; 11:09 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 1-1597]

IN THE MATTER OF THE HARTMAN TOBACCO COMPANY COMMON STOCK, NO PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 18th day of December, A. D. 1940.

The Hartman Tobacco Company, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its Common Stock, No Par Value, from listing and registration on the New York Curb Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Wednesday, January 15, 1941, at the office of the Securities & Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-5755; Filed, December 19, 1940; 11:21 a. m.]

UNITED STATES CIVIL SERVICE COMMISSION.

CONDITION OF THE APPORTIONMENT AT CLOSE OF BUSINESS SATURDAY, DECEMBER 14, 1940

Important: Although the apportioned classified Civil Service is by law located only in Washington, D. C., it nevertheless includes only about half of the Federal Civilian positions in the District of Columbia. Positions in local post offices, customs districts and other field services outside of the District of Columbia which are subject to the Civil Service Act are filled almost wholly by persons who are local residents of the general community in which the vacancies exist. It should be noted and understood that so long as a person occupies, by original appointment, a position in the apportioned service, the charge for his appointment continues to run against his State of original residence. Certifications of eligibles are first made from States which are in arrears.

State	Number of positions to which entitled	Number of positions occupied
IN ARREARS		
1. Virgin Islands	11	0
2. Puerto Rico	738	47
3. Hawaii	176	19
4. California	2,716	1,032
5. Alaska	28	11
IN ARREARS—Continued		
6. Texas	2,786	1,272
7. Louisiana	1,005	515
8. Michigan	2,316	1,234
9. Arizona	208	114
10. South Carolina	832	497
11. Mississippi	961	621
12. Arkansas	887	577
13. Georgia	1,391	908
14. Kentucky	1,251	818
15. Alabama	1,266	832
16. Ohio	3,179	2,108
17. New Jersey	1,933	1,307
18. New Mexico	202	143
19. North Carolina	1,516	1,075
20. Oklahoma	1,146	859
21. Nevada	44	35
22. Tennessee	1,252	1,030
23. Illinois	3,650	3,141
24. Indiana	1,549	1,404
25. Wisconsin	1,406	1,285
26. Vermont	172	160
27. Florida	702	687
28. New York	6,021	5,901
29. Missouri	1,736	1,704
30. Pennsylvania	4,607	4,538

State	Number of positions to which entitled	Number of positions occupied	Net gain or loss since July 1, 1940
IN EXCESS			
31. Connecticut	769	776	+75
32. Colorado	495	503	−30
33. Delaware	114	116	+9
34. West Virginia	827	853	+34
35. Washington	748	772	+17
36. Idaho	213	220	+19
37. Minnesota	1,226	1,271	−38
38. Maine	381	397	+24
39. Iowa	1,182	1,233	−59
40. Massachusetts	2,033	2,127	+100
41. South Dakota	331	348	−19
42. New Hampshire	223	237	+13
43. Rhode Island	329	354	+16
44. Oregon	456	492	+57
45. Kansas	900	984	+69
46. Utah	243	270	+15
47. Nebraska	659	778	−22
48. North Dakota	326	386	+58
49. Wyoming	108	128	+22
50. Montana	257	308	+57
51. Virginia	1,158	2,108	−66
52. Maryland	780	2,217	+30
53. District of Columbia	233	8,929	+53

GAINS	
By appointment	884
By transfer	31
By reinstatement	3
By correction	6
Total	924
LOSSES	
By separation	56
By transfer	36
By correction	1
Total	93
Total appointments	59,681

NOTE: Number of employees occupying apportioned positions who are excluded from the apportionment figures under section 3, Rule VII, and the Attorney General's Opinion of August 25, 1934, 17,461.

By direction of the Commission.

[SEAL] L. A. MOYER,
Executive Director and Chief Examiner.

[F. R. Doc. 40-5740; Filed, December 18, 1940; 12:10 p. m.]